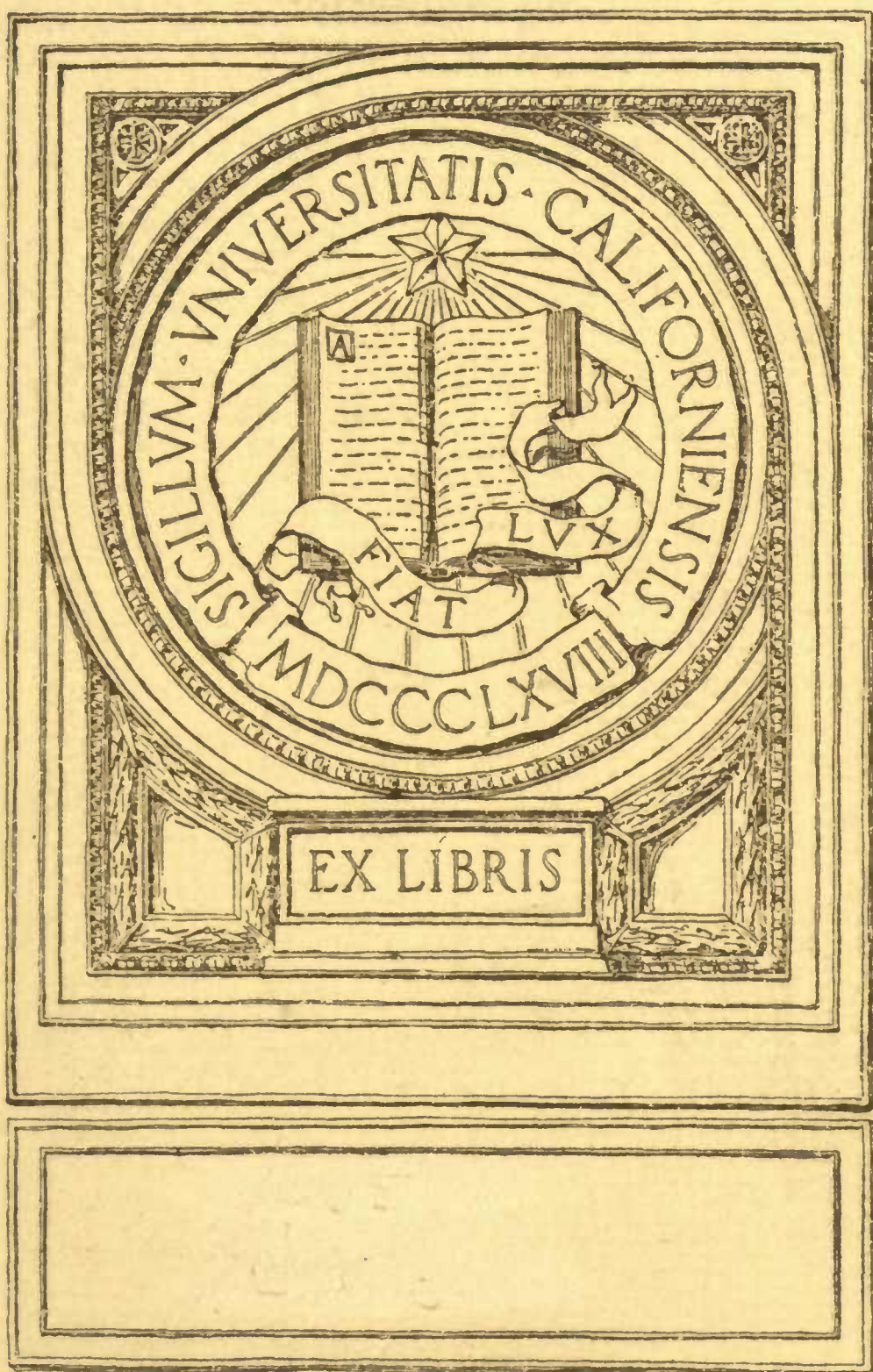


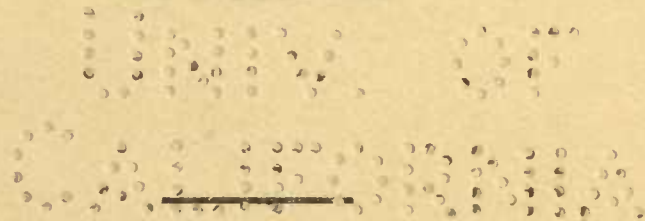
California Road Laws



California . Laws, statutes, etc.

THE
ROAD LAWS
OF
CALIFORNIA

EMBRACING THE PROVISIONS OF THE CONSTITUTION, THE CODES,
AND SPECIAL STATUTORY ACTS RELATING TO HIGHWAYS,
BRIDGES AND THE CONDEMNATION OF LANDS
FOR PUBLIC USE.



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CONSTITUTION OF CALIFORNIA.

ARTICLE IV.

§ 25. The legislature shall not pass local or special laws in any of the following enumerated cases; that is to say,—

* * * * *

Seventh—Authorizing the laying out, opening, altering, maintaining or vacating roads, highways, streets, alleys, town plats, parks, cemeteries, grave yards, or public grounds not owned by the state.

* * * * *

Twenty-fifth—Chartering or licensing ferries, bridges or roads.

* * * * *

§ 36. The legislature shall have power to establish a system of State highways or to declare any road a State highway, and to pass all laws necessary or proper to construct and maintain the same, and to extend aid for the construction and maintenance, in whole or in part, of any county highway. [New section adopted November 4, 1902.]

PROVISIONS
OF THE
POLITICAL CODE.

HIGHWAYS.

[Reconstructed by act approved February 28, 1883, in accordance with article IV, section 25, subdivision 7, of the Constitution: See note following section 2744.]

Enumeration of Highways, pp. 7-9.

Rules and Restrictions respecting the use of Highways, pp. 9-10.

Powers and Duties of Highway officers, pp. 11-19.

Highway Taxes, pp. 19-23.

Performance of Highway Labor and Commutation, p 23.

Laying Out, Altering, and Discontinuing Roads, pp. 24-31.

Erection and Maintenance of Bridges, pp. 32-35.

Obstructions and Injuries to Highways, pp. 35-41.

Permanent Road Divisions, pp. 31-51.

ENUMERATION OF HIGHWAYS.

§ 2618. What are highways.

§ 2619. Origin of highways.

§ 2620. Width of highways.

§ 2621. Vacation of highways.

§ 2622. Record of proceedings relating to roads and highways.

§ 2623. Title to roads.

§ 2618. In all counties of this State public highways are roads, streets, alleys, lanes, courts, places, trails, and bridges, laid out or erected as such by the public, or if laid out or erected by others, dedicated or abandoned to the public, or made such in actions for the partition of real property.

70 Cal. 455; 71 Cal. 402; 84 Cal. 5; 91 Cal. 435; 93 Cal. 131; 94 Cal. 539; 95 Cal. 469; 102 Cal. 29; 103 Cal. 230; 125 Cal. 576; 132 Cal. 169; 137 Cal. 518; 141 Cal. 347; 144 Cal. 354; 149 Cal. 746.

Abandonment of toll road: Sec. 2799, post.

§ 2619. Whenever the franchise for any toll-bridge, trail, turnpike, plank or common wagon road has expired by limitation or non-user, such

bridge, trail, turnpike, plank or common wagon road becomes a free public highway; and no claim shall be valid against the public for right of way, or for the land or material comprising such bridge, trail, turnpike, plank, or common wagon road. All public highways, once established, shall continue to be public highways until abandoned by order of the Board of Supervisors of the county in which they are situated, or by operation of law, or judgment of a court of competent jurisdiction.

65 Cal. 251; 71 Cal. 402; 78 Cal. 14, 408, 409; 79 Cal. 170; 80 Cal. 342; 81 Cal. 124; 82 Cal. 157; 83 Cal. 267; 89 Cal. 13, 14; 94 Cal. 539; 95 Cal. 83, 469; 99 Cal. 213, 293; 102 Cal. 29, 30, 31, 32, 37; 103 Cal. 230; 104 Cal. 439; 108 Cal. 594, 596; 122 Cal. 338; 132 Cal. 170, 171, 172; 144 Cal. 354; 7 Cal. App. 492.

§ 2620. The width of all public highways, except bridges, alleys, and lanes, and trails, shall be at least forty feet. The width of all private highways and by-roads, except bridges, shall be at least twenty feet; provided, however, that nothing in this act shall be so construed as to increase or diminish the width of either kind of highways already established or used as such.

84 Cal. 6; 89 Cal. 18; 126 Cal. 581; 158 Cal. 432.

§ 2621. A road laid out and worked, and used as provided in this chapter, shall not be vacated or cease to be a highway until so ordered by the Board of Supervisors of the county in which said road may be located; and no route of travel used by one or more persons over another's land shall hereafter become a public road or byway by use, or until so declared by the Board of Supervisors or by dedication by the owner of the land affected.

71 Cal. 402; 81 Cal. 124; 89 Cal. 14; 93 Cal. 131; 94 Cal. 539; 103 Cal. 232; 155 Cal. 401.

§ 2622. The Clerk of the Board of Supervisors shall include in the minutes of the Board of Super-

visors all proceedings of the Board relative to each road or road district, including orders for laying out, altering, and opening roads; he must also keep a Road Register, in which must be entered the number and name of each public highway in the county, a general reference to its terminal points and course, also the date of the filing of the petition or other papers, a memorandum of every subsequent proceeding in reference to it, with the date thereof, and the folio, and the volume of the minute book where it is recorded.

§ 2623. Any road laid out by the Board of Supervisors as provided in this chapter, or used and worked as therein provided, shall not be vacated or cease to be a highway until so ordered by said board; and each county shall be deemed to have acquired title to any road opened over any land in conformity to any order made by its board of supervisors pursuant to this chapter after one year shall have elapsed from the time of making the order opening the road. [New section added April 6, 1891; Stats. 1891, p. 508.]

RULES AND RESTRICTIONS RESPECTING THE USE OF HIGHWAYS.

§ 2631. The public easement.

§ 2632. Adjoining owner may construct sidewalk.

§ 2633. May plant trees.

§ 2636. Highways and avenues, how named.

§ 2631. By taking or accepting land for a highway, the public acquire only the right of way, and the incidents necessary to enjoying and maintaining the same, subject to the regulations in this and the Civil Code provided.

71 Cal. 401; 81 Cal. 125, 126; 108 Cal. 596; 143 Cal. 238, 242; 7 Cal. App. 538.

§ 2632. Any owner or occupant of land may construct a sidewalk on the highway along the line of his land, subject, however, to the authority

conferred by law on the Board of Supervisors and the Commissioners of Highways; and any person using such sidewalk with mule, horse, or team, without permission of the owner, is liable to such owner or occupant in the sum of five dollars for each trespass, and for all damages suffered thereby.

§ 2633. Any owner or occupant of land adjoining a highway not less than three rods wide, may plant trees in and along said highway on the side contiguous to his land. They must be set in regular rows, at a distance of at least twenty feet from each other, and not more than six feet from the boundary of the highway. If the highway is more than eighty feet wide, the road must not be less than six nor more than twelve feet from the boundary of the highway. Whoever willfully injures any of them is liable to the owner or to the occupant for the damage which is thereby sustained; provided, if, in the judgment of the Board of Supervisors, the whole width of such road is needed for use for highway purposes, the whole thereof may be so used. [Amendment approved March 9, 1893; Stats. 1893, p. 113. In effect immediately.]

§ 2636. The owners of land along any road, highway, avenue, or other public way may petition the board of supervisors of the county in which said road, highway, avenue, or other public way is located, to have a name adopted and applied to the same. The name and a description of the road, highway, or avenue to be named shall be set forth in the petition, which petition shall be signed by three-fourths of the owners of land on said road, highway or avenue. The supervisors to whom such petition is presented shall examine the same, and if it conforms to the provisions of this act shall make an order in the minutes of the board granting the petition, and thereafter the said described road, highway or avenue, shall be known by said name. [New section added April 27, 1911.]

ROADS AND DUTIES OF HIGHWAY OFFICERS.

Road Districts.

Road Overseers.

Duties of Supervisors respecting roads.

a. Roads in danger of storm waters or floods.

Overseers to give bond and take oath.

§ 2645. Duties of Road Overseer.

§ 2646. Maintenance and repair of highways.

§ 2647. Road fences along right of way.

§ 2641. The Board of Supervisors of the several counties shall divide their respective counties into suitable road districts, and may change the boundaries thereof, and each Supervisor shall be ex-officio road commissioner in his supervisor district, and shall see that all orders of the board of supervisors pertaining to the roads in his district are properly executed; provided, when in any county the members of the Board of Supervisors thereof are not elected by districts, it shall be the duty of such board, by proper order, to be entered in its records, to divide such county into supervisor districts to correspond with the number of members of such board, and to assign to each member thereof one of such districts, of which he shall be such road commissioner; when not otherwise provided by law, he shall receive for his services as such road commissioner twenty cents per mile, one way, for all distances actually traveled by him in the performance of his duties; provided, that he shall not, in any one year, receive more than three hundred dollars. [Amendment approved March 9, 1893; Stats. 1893, p. 113. In effect immediately.]

68 Cal. 67; 79 Cal. 474; 102 Cal. 404; 125 Cal. 211, 212; 126 Cal. 623; 137 Cal. 518; 149 Cal. 740.

§ 2642. From and after the Monday following the first day of January, A. D. eighteen hundred and ninety-three, the office of road overseer shall be abolished; provided, that whenever in this code the words "road-overseer" occur, they shall be

taken and construed so as to read road commissioner. [Amendment approved March 31, 1891; Stats. 1891, p. 474. In effect after the Monday following the first day of January, 1893.]

70 Cal. 612; 126 Cal. 624.

§ 2643. The Boards of Supervisors of the several counties of the State shall have general supervision over the roads within their respective counties. They must, by proper order:

1. Cause to be surveyed, viewed, laid out, recorded, opened, and worked, such highways as are necessary to public convenience, as in this chapter provided;

2. Cause to be recorded as highways all highways which have become such by usage, dedication, or abandonment to the public, or by any other means provided by law, and to prepare and record proper deeds and titles thereto;

3. Abolish or abandon such as are not necessary;

4. Acquire the right of way over private property for the use of public highways, and for that purpose require the District Attorney to institute proceedings under title seven, part three, of the Code of Civil Procedure, and to pay therefor from the general road fund, or the district road fund of the county;

5. Levy a property tax for road purposes;

6. Cause to be erected and maintained, at the intersections and crossings of highways, guideposts, properly inscribed;

7. Cause the road tax collected each year to be apportioned to the several road districts entitled thereto, and kept by the County Treasurer in separate funds;

8. Audit all claims on the funds set apart for highway purposes and specify the fund or funds from which the whole or any part of any claim or claims must be paid;

9. In their discretion, they may provide for the establishment of gates on the public highways in certain cases, to avoid the necessity of building road fences, and prescribe rules and regulations for closing the same, and penalties for violating said rules; provided, that the expense for the erection and maintenance of such gates shall in all cases be borne by the party or parties for whose immediate benefit the same shall be ordered;

10. For the purpose of sprinkling the roads in any part of the county with oil or water, the Board of Supervisors may erect and maintain waterworks and oil tanks and reservoirs, and for such purposes may purchase or lease real or personal property. The costs of such waterworks, oil tanks and reservoirs and the sprinkling of said roads with oil or water may be charged to the general county fund, the general road fund, or the district fund of the district or districts benefited;

Whenever it is determined by a four-fifths vote of the board of supervisors of any county that the public convenience and necessity demands the acquisition or construction of a road in excess of three miles in length, the cost of which will be too great to pay out of any of the road funds of the county, the board of supervisors may by resolution passed by a four-fifths vote of said board, determine to acquire or construct such road, and may, therefore, proceed to acquire or construct such road and if the cost of such road, when constructed, shall exceed five thousand dollars, such cost may be charged to the general county fund, the general road fund or the district fund of the district or districts benefited;

And provided, however, that whenever it is determined by a four-fifths vote of the board of supervisors of any county that it will cost less to repair, reconstruct or rebuild any existing main line road in said county, which is in excess of three miles in length and the cost of the repairing, reconstruction or rebuilding of which will ex-

ceed five thousand dollars, than it will, to acquire or construct a new road between the same points, the said board of supervisors may, by resolution passed by a four-fifths vote of said board, determine to repair, reconstruct or rebuild such road and the cost thereof may be charged to the general county fund, the general road fund or the district fund of the district or districts benefited;

11. Whenever it shall be determined that any grading, graveling, macadamizing, ditching, sprinkling, or other work upon highways is necessary, and is to be done, and where the estimated cost of such work amounts to three hundred dollars, the Board of Supervisors must, by proper order, direct the County Surveyor to make definite surveys of the proposed work, and to prepare profiles and cross-sections thereof, and to submit the same with the estimate of the amount or amounts of work to be done, and cost thereof, and with specifications thereof. Said report shall be prepared in duplicate, one copy to be filed in the surveyor's office, and the other to be filed with the clerk of the Board of Supervisors. The Board, upon receipt of such report, must advertise for bids for the performance of the work specified. Such advertisement for bids must be published for two weeks in two newspapers, one published at the county seat and the other at a point nearest the proposed work. Such advertisement must be in the following form:

“Office of the Clerk of the Board of Supervisors,
 _____ County, _____, 191—.

Sealed bids will be received by the clerk of the Board of Supervisors of _____ County, at his office, until _____ o'clock, — M., _____, 191—, for _____, on _____, in _____ District, in _____ County.

Specifications for this work are on file in the

office of the said board, to which bidders are hereby referred.

_____,
Clerk of the Board of Supervisors of the County
of _____.’’

And such advertisement must also be posted, for at least two weeks prior to the opening of the bids for the proposed work, in three conspicuous places in the district or districts in which the proposed work lies, and one at the site of the proposed work. Bids must be inclosed in sealed envelope, addressed to the clerk of the Board of Supervisors, and must be indorsed, ‘‘Bids for _____,’’ and must be delivered to said clerk prior to the hour specified in the advertisement. The board shall publicly open and read such bids as may be submitted, and must award the contract for the work to the lowest bidder; unless it shall appear to the board that the bids are too high, and the work can be done more cheaply by day labor, in which case the bids must be rejected, and the work ordered done by the road commissioner or commissioners in whose district or districts the work may be situated. In case the work shall be let by contract, monthly or quarterly payments may be made thereon, upon the receipt of a certified estimate by the County Surveyor of the amount of work done during the preceding month or quarter, to the extent of seventy-five per cent of the value of said work, the remaining twenty-five per cent being due on the completion of the work. The services of the surveyor in making such partial estimates must be paid for by the contractor. Upon the completion of the work the County Surveyor must examine the same, and if completed in accordance with the specifications thereof, he must submit to the Board of Supervisors a certificate, over his signature and official seal, to the effect that such work by the contractor therefor has been com-

pleted in accordance with the specifications therefor, and recommending its acceptance. The board shall thereupon audit the same and direct its payment out of the proper fund or funds.

12. In their discretion, they may set apart on any public road or highway a strip of land (for a side path), and make an order designating the width of such path and cause the lines separating the path from the road to be located and marked by stakes or posts, placed at such distances apart as they shall deem proper. After said paths have been set apart, and the lines separating the same from the road have been located and marked, as aforesaid, the use of the same is hereby restricted to pedestrians and riders of bicycles, and other vehicles propelled solely by the power of the rider.

Expense of erecting and maintaining such path may be charged to the general county fund, the general road fund, and the district fund of the district or districts benefited. [Amendment approved April 27, 1911.]

71 Cal. 403; 80 Cal. 342; 89 Cal. 14; 90 Cal. 385; 126 Cal. 626; 12 Cal. App. 430; (sub. 2) 99 Cal. 446; (sub. 3) 89 Cal. 13; (sub. 4) 80 Cal. 341; (sub. 8) 150 Cal. 457; (sub. 10) 143 Cal. 241; 150 Cal. 457; 153 Cal. 371; 12 Cal. App. 431, 432, 433; (sub. 11) 102 Cal. 404.

§ 2643a. Whenever any public road or highway is in danger of being damaged by storm-waters or floods on the same, the board of supervisors shall adopt such measures as may be necessary to prevent such damage, and may, by ordinance, establish a district, adopt a general plan of protection from storm-waters and floods therein, and may cause a part or all of the road taxes collected in such district to be apportioned to a fund and expended for such purpose, and they may also apportion to such fund and expend for such purpose an amount not exceeding ten per centum of the general road fund of the county, or they may at the time of

levying taxes for general county purposes levy a special tax for such purpose, not exceeding fifty cents on each one hundred dollars of the taxable property in the district as shown by the last assessment roll, but no such special tax shall be levied upon any district until the proposition to levy the same has been submitted to the qualified electors of the district and received a majority of all the legal votes cast on said proposition. [New section, approved March 3, 1903. In effect in sixty days.]

§ 2644. No claim for labor performed in any road district shall be allowed by the Board of Supervisors unless the same be accompanied by a report showing where the labor was performed, the nature of the same, and the number of animals, and the kind of implements used. But if said labor shall be performed under the direction of a foreman or timekeeper, said foreman's or timekeeper's report shall cover all work performed under his direction, and shall be sufficient to warrant the payment of all claims for labor so performed. The Board of Supervisors shall have power, and it is hereby made its duty, to prescribe rules and blank forms, not inconsistent with the laws of this State, for the making of the reports herein required. [New section, approved March 31, 1897; Amendments 1897, chap. clxxvii. In effect July 1, 1897.]

§ 2645. Road commissioners, under the direction and supervision and pursuant to orders of the Board of Supervisors, must—

1. Take charge of the highways within their respective districts, and shall employ all men, teams, watering carts, and all help necessary to do the work in their respective districts when the same is not let by contract; provided, that no road commissioners shall be interested, directly or indirectly, in any contract or work to be done in the road district under his charge and control.

2. Keep them clear from obstructions, and in good repair, and destroy, or cause to be destroyed, at least once a year, all thistles, Mexican cockle-burs, of any kind, and all noxious weeds, growing or being on any portion of the public highways or public roads in their respective districts.

3. Cause banks to be graded, bridges and causeways to be made when necessary, keep the same in good repair, and renew them when destroyed. [Amendment approved March 9, 1893; Stats. 1893, p. 115. In effect immediately.]

78 Cal. 495; 90 Cal. 385; 102 Cal. 38, 404; 126 Cal. 624, 626.

§ 2646. Whenever any of the highways of a county have been constructed or improved under the provisions of an act entitled: "An act providing for the laying out, constructing, straightening, improvement and repair of main public highways in any county, providing for the voting, issuing and selling of county bonds and the acceptance of donations to pay for such work and improvements, providing for a highway commission to have charge of such work and improvements, and authorizing cities and towns to improve the portions of such highways within their corporate limits and to issue and sell bonds therefor," approved March 19, 1907, and all acts amendatory thereof or supplementary thereto, the board of supervisors of said county shall have the charge of the maintenance and repair of said highways and may employ a superintendent or inspector to have charge of the repairing and maintenance of all of said roads under the orders and direction of said board, and may employ such workmen and purchase such materials, equipment, tools and appliances as may be necessary to maintain said roads and keep them in repair, the cost of such maintenance and repair to be paid out of the general fund of the county. Nothing herein contained shall prevent the board from having any such work of

repair of maintenance done by contract under the provisions of section 2643, if they deem it advisable. [New section approved March 9, 1911; in effect immediately.]

§ 2647. Whenever any right of way for a public highway has been or may hereafter be conveyed to a county without consideration, other than that the said county shall construct and maintain a highway thereon and shall construct road fences along the lines thereof; and said right of way shall have been or shall hereafter be accepted and declared by the Board of Supervisors of the county a public highway, the said Board may, in its discretion, provide for the building of road fences along the said right of way, at any time within five years from the date of such conveyance to the county. The cost of such fences may be charged to and paid from the general county fund, the general road fund or the district fund of the district or districts benefited; provided, that not to exceed one half of the cost of any fences so constructed shall be paid from the general county fund. [New section approved March 23, 1901. In effect immediately.]

150 Cal. 457; 153 Cal. 372; 12 Cal. App. 433.

HIGHWAY TAXES.

- § 2651. General road fund.
- § 2652. Road poll tax.
- § 2653. Property highway tax.
- § 2654. Assessment and collection of property highway tax.
- § 2655. Taxes, to be expended in districts.
- § 2656. Division of road funds.

§ 2651. The Board of Supervisors may, at the meeting at which they are required to levy the property tax for road purposes, establish a general road fund and order to be apportioned thereto an amount not exceeding thirty-five per centum of the aggregate road tax collected from all sources. The moneys in such general road fund shall be applied to

the following purposes only: First, the payment of the expense of general county road improvements in which the inhabitants of all of the districts within the county are interested; second, the assistance of weak and impoverished districts in keeping roads in repair; third, the payment of such demands as are payable by law out of the general road fund; provided, that no greater proportion of such general road fund shall be used or expended in any road district than the amount collected in such road district, unless the Board of Supervisors shall by a two-thirds vote of all its members authorize the expenditure therein of such greater proportion, and the said Board shall have no power to create a debt on any road district in excess of the estimated amount of receipts from said district for the current year. The moneys in such general road fund at the end of the fiscal year, after the payment of all warrants drawn on such fund, shall be reapportioned by the county auditor to the district funds of the several road districts in which it was collected.

All contracts, authorizations, allowances, payments, and liabilities to pay, made or attempted to be made in violation of this act, shall be absolutely void, and shall never be the foundation or basis of a claim against the treasury of such county. And all officers of said county are charged with notice of the condition of the treasury of said county, and the extent of the claims against the same. All supervisors, and any other officer authorizing or aiding to authorize, or auditing or allowing any claim or demand upon or against said treasury, or any fund thereof, in violation of any of the provisions of this act, shall be liable in person, and upon their several official bonds, to the person or persons damaged by such illegal authorization to the extent of his loss by reason of the non-payment of his claim. The treasurer paying any claim authorized, allowed, or audited in violation of this provision shall be liable on his official bond to refund the same to the county

treasury. [Amendment approved March 23, 1901.]
75 Cal. 505; 78 Cal. 495; 137 Cal. 518; 153 Cal.
373.

§ 2652. The Board of Supervisors may, annually, at any regular meeting held between the first days of January and March of each year, levy on each male person over twenty-one and under fifty-five years of age found in each road district during the time for the collection of road poll taxes for that year, excepting all persons who were honorably discharged from service in the army or navy of the United States at any time within the first day of April in the year of our Lord eighteen hundred and sixty-one, and the first day of September in the year of our Lord eighteen hundred and sixty-five, an annual road poll tax not exceeding three dollars; and from every such person not above excepted, in a road district, who has not paid the same in some other district, must be collected the amount of road poll tax so levied. Said road poll tax shall be collected by the county assessor in the same manner that state poll taxes are collected, and all remedies given by law for the collection of state poll taxes shall apply to and be in force for the collection of road poll taxes. Road poll tax receipts, in blank, signed, and numbered in the same manner that other poll tax receipts are signed and numbered, shall be delivered by the auditor of the county to said county assessor on or before the first Monday of March of each year; and said assessor shall be charged with the amount of such road poll tax receipts delivered to him, and be credited with those returned, and shall settle with the auditor, and pay over the amounts collected, in the manner provided by section 3853 of this code. A sum not exceeding thirty-five per cent of all road poll taxes so collected may be apportioned to the general road fund, and the balance shall be apportioned to the several districts of the county from which said road poll tax

was collected. [Amendment approved March 31, 1891; Stats. 1891, p. 478. In effect after the Monday following the first day of January, 1893.]

78 Cal. 495; 104 Cal. 66, 67.

§ 2653. The Board of Supervisors must each year, at the meeting at which they are required to levy the property tax for county purposes, estimate the probable amount of property tax for highway purposes which may be necessary for the ensuing year, over and above the road tax, and must regulate and fix the amount of property highway tax, and levy the same thereby; provided, that said property tax for highway purposes shall not exceed the sum of forty cents upon each one hundred dollars of assessable property in any one year.

78 Cal. 495; 12 Cal. App. 432.

§ 2654. The annual property tax for road purposes must be levied by the Board of Supervisors at their session when the tax is by them levied for county purposes. This property road tax, when levied, must be annually assessed and collected by the same officers and in the same manner as other state and county taxes are levied, assessed and collected, and turned over to the County Treasurer for the use of the road districts from which it is respectively collected.

96 Cal. 636; 104 Cal. 67; 137 Cal. 518, 519.

§ 2655. All property road tax and road poll tax collected in each road district shall be expended for road purposes within the district in which it is collected, subject to the provisions of sections 2651 and 2652.

137 Cal. 518; 153 Cal. 373.

§ 2656. Whenever any territory is included in a city, or incorporated town, or city and county, either at the original incorporation of such city, incorporated town or city and county, or by an-

nexation thereto subsequently, and such territory shall have constituted a road district, or a part of a road district, it shall be the duty of the county board of supervisors, as soon as practicable after such incorporation or annexation, to ascertain how much of the unexpended moneys in the general road fund or of the highway taxes of all kinds then levied and in the course of collection, is derived from property situate or persons residing in such territory; and they shall cause the amount so ascertained to be paid to the proper officers of such city, incorporated town, or city and county, as soon as practicable after it shall have come into the general road fund. The sum or sums so paid over to such city, incorporated town, or city and county, shall become part of the general fund of such city, incorporated town, or city and county. [New section approved February 28, 1907. In effect immediately. All conflicting acts repealed.]

PERFORMANCE OF HIGHWAY LABOR AND COMMUTATION.

§ 2671. Employers responsible for road taxes assessed against employees.

§ 2671. Corporations, or other employers of persons in any road district subject to road tax are chargeable for the road poll tax assessed against their employees to the extent of any credit in their hands not exceeding such tax; provided, the Road overseer shall first give notice to such employer, or the managing agent of such corporation, and from the time of such notice, the amount of any credit in his hands, or that shall thereafter accrue sufficient to satisfy said tax, shall be paid to the Road Tax Collector, whose receipt shall be evidence in bar of the prosecution of any action by the employee against the principal for the recovery of the same.

LAYING OUT, ALTERING, AND DISCONTINUING
ROADS.

- § 2681. Who may apply for changes.
- § 2682. Petition.
- § 2683. Bond.
- § 2684. Viewers.
- § 2685. Duties of Viewers.
- § 2686. Report of Viewers.
- § 2687. Viewers and Surveyors, how paid.
- § 2688. Proceedings of Board in hearing report.
- § 2689. Effect of, and proceedings on approval of report
- § 2690. Proceedings to procure right of way.
- § 2691. Payment of awards and expenses.
- § 2692. Private roads, how opened.
- § 2693. Record of transfer of right of way.
- § 2694. Roads crossing railroads, canals, and ditches.
- § 2695. Fences to be removed, how.
- § 2696. Acquiring land.

§ 2681. Any ten freeholders who will be accommodated by the proposed road, two of whom must be residents of the road district wherein any part of the proposed road is situated, and who are taxable therein for road purposes, may petition, in writing, the board of supervisors to alter or discontinue any road, or to lay out a new road therein; provided, that when a road is petitioned for upon the dividing line between two counties, the same course shall be pursued as in other cases, except that a copy of the petition shall be presented to the Board of Supervisors of each county, who shall appoint viewers, to act jointly, and report to their respective boards the action of such viewers; provided, further, that all such roads shall be at least forty feet wide. [Amendment approved March 10, 1891; Stats. 1891, p. 64.]

68 Cal. 59; 71 Cal. 403; 75 Cal. 609; 79 Cal. 379; 80 Cal. 342; 89 Cal. 14; 95 Cal. 242, 243; 110 Cal. 98; 130 Cal. 635; 157 Cal. 98; 1 Cal. App. 179; 2 Cal. App. 26, 27; 3 Cal. App. 675.

§ 2682. The petition must set forth the general route of the road to be abandoned, discontinued, altered, laid out, or constructed, and the names of the persons over whose land the same is to run, if

known, and if not known, that fact must be stated. [Amendment approved April 6, 1891; Stats. 1891, p. 509. In effect immediately.]

75 Cal. 606; 95 Cal. 242, 243; 146 Cal. 2.

§ 2683. The petitioners must accompany the petition with a good and sufficient bond, to be approved by the Board of Supervisors, in double the amount of the probable cost of the viewing and laying out or altering of any road, conditioned that the bondsmen will pay all the costs of viewing and surveying in case the prayer is not granted.

75 Cal. 606; 95 Cal. 240; 107 Cal. 533; 139 Cal. 130; 146 Cal. 2; 13 Cal. App. 45.

§ 2684. Upon filing such petition and bond, the Board of Supervisors may, if they deem it advisable, appoint three viewers, one of whom must be a surveyor, to view and survey any proposed alteration of an old or opening of a new road, and submit to the board an estimate of the change, alteration, or opening, including the purchase of the right of way, and their views of the necessity thereof. [Amendment approved March 9, 1893; Stats. 1893, p. 100. In effect immediately.]

§ 2685. The road viewers must be disinterested citizens of the county; but not petitioners. They must be sworn to discharge their duties faithfully, must view and lay out the proposed alterations or new road over the most practicable route, and in the performance of this duty they shall be required to make the proposed alterations or new road over the same lands mentioned in the petition, but shall not be confined to any particular route indicated therein. The viewers must notify the resident owner or agent of the owner of the land over which it passes of the proposed route. A majority number of the viewers, providing one shall be a surveyor, shall be competent to act in all matters pertaining to their duties mentioned in this chapter. The

Board of Supervisors, in making the order appointing viewers, may, in their discretion, direct said viewers to first view the proposed road, and if, in the opinion of the viewers, the road is impracticable, the said viewers shall discontinue further proceedings in the matter, and report accordingly. [In effect March 17, 1887.]

75 Cal. 608; 136 Cal. 377.

§ 2686. When the view and survey of the proposed alteration or new road is completed, the viewers must report to the Board of Supervisors—

1. The course, termini, length, and probable cost of construction of the proposed road.

2. The estimate of damage to the owner of any land over which it is proposed to run the road.

3. The names of land owners who consent to give the right of way, and their written consent thereto.

4. The names of land owners who do not consent, and the amount of damage claimed by each; provided, that when there are non-resident land owners, and no agent upon the land upon whom notice can be served, such non-resident land owners shall be considered as non-consenting land owners, unless their written consent shall have been obtained.

5. Such other facts bearing upon the subject of importance to be known by the Board of Supervisors.

6. They may also, in their discretion, or by order of the Board of Supervisors, report upon the feasibility and cost of any other route than the one petitioned for which would subserve the same purposes; and also report as to the necessity of a greater or the practicability of a less width of road than petitioned for.

68 Cal. 62; 75 Cal. 608; 83 Cal. 514; 136 Cal. 477; 14 Cal. App. 787.

§ 2687. The viewers must be paid not to exceed three dollars each per day for their services out

of the road fund of the district through which the road passes, and the Surveyor shall receive a per diem not to exceed ten dollars for the time occupied in running out and mapping the road, and making the plat and field notes, which must be filed before he receives his compensation.

§ 2688. The Board of Supervisors at the next meeting after the filing of the report or at the time when the report is filed (if then in session), must fix a day for hearing the same, and must give notice to such non-consenting land-owners of the time and place of such hearing, by publication, for at least two successive weeks before such hearing, in a newspaper, to be designated by the board, published in the county; but if there be no newspaper published in the county, then by posting notices, one at a conspicuous place on the land, and one at the court house, at least two weeks before such hearing. Said notice shall intelligently describe the road to be abandoned, discontinued, altered, laid out, or constructed, and the lands over which the same is to run, and the names of the owners of such land when known, and if not known, that fact must be stated. The board must, on the day fixed for the hearing, or to which it may be postponed or continued, hear the evidence offered by parties interested for or against the proposed alterations or new road, and must ascertain and by order declare the amount of damage awarded to each non-consenting land owner over whose land they shall order the road to be opened, whether known or unknown, and declare the report of the viewers to be approved or rejected, in whole or in part. [Amendment approved April 6, 1891; Stats. 1891, p. 509. In effect immediately.]

104 Cal. 393; 2 Cal. App. 26; 14 Cal. App. 786.

Consenting owners: See Sec. 2686, *supra*.

§ 2689. If the Board approve the report, and there are no non-consenting land owners, the road

must by order be declared a public highway, and the same opened to the public. The Board, upon making each and every order establishing the location or alteration of any road or highway, shall order the amount of damages sustained by each and every person owning or claiming lands, or any improvements thereon or affected thereby, as finally fixed and assessed by them, to be set apart in the treasury out of the proper fund, to be paid by the proper owner or claimant if known, and to be kept for the proper claimant or owner if unknown, and to be paid to him or her upon showing or establishing their right or title to such lands or improvements; provided, that any person interested in said road may place in the Treasury the whole or any part of the amount necessary to meet the demands made upon such fund by said orders of the Board. Any moneys so set apart as herein provided for, shall be returned to the person from whom or the fund from which it was taken or set apart, if not paid to or accepted by the proper owner or claimant. If the awards are all accepted, the road must be declared a public highway, and be opened as before provided. [In effect March 17, 1887.]

68 Cal. 60; 106 Cal. 571; 146 Cal. 2; 157 Cal. 435; 2 Cal. App. 26.

§ 2690. If any award of damages is not accepted within ten days of the date of the award, it shall be deemed as rejected by the land owners. The Board must by order direct proceedings to procure the right of way to be instituted by the District Attorney of the County, under and as provided in title seven, part three, of the Code of Civil Procedure, against all non-accepting land owners, and when thereunder the right of way is procured the road must be declared a public highway, and opened as herein provided. In such suit no informality in the proceedings of the Board shall vitiate said suit, but the said order of the Board directing the Dis-

trict Attorney to bring suit shall be conclusive proof of the regularity thereof; and the said suit shall be determined by the Court or jury in accordance with the rights of the respective parties, as shown in Court independent of said proceedings before said Board. [In effect March 17, 1887.]

68 Cal. 60; 83 Cal. 511, 513; 96 Cal. 93; 102 Cal. 433; 110 Cal. 98; 118 Cal. 681; 129 Cal. 406, 407; 130 Cal. 635; 136 Cal. 478; 139 Cal. 130; 146 Cal. 2; 1 Cal. App. 177, 179, 180; 2 Cal. App. 28; 13 Cal. App. 46; 14 Cal. App. 783.

Notification of owners: See sec. 2688, *supra*.

Eminent domain, generally: See Code Civ. Proc., secs. 1237 et seq.

§ 2691. All awards by agreement, ascertainment by the board or the proper court, and all expenses of viewing, laying out, or altering any road, must be paid out of the road fund of the district, except that which may be paid by interested parties on the order of the Board of Supervisors, and except also that whenever it appears to the Board of Supervisors that any road district would be unreasonably burdened by the payment of such awards and expenses the board of supervisors, by a two-thirds vote, may cause a portion of such awards and expenses to be paid from the general road fund; provided, however, that not to exceed ten per cent of the general road fund shall be devoted to such purposes in any one fiscal year. If the road lies in more than one district, the supervisors must proportionately divide the awards and other costs between said districts; provided, however, that when money is paid out by any interested person the same may be given to the credit of either fund, at the discretion of the board. [Amendment approved February 27, 1893; Stats. 1893, p. 53. In effect immediately.]

§ 2692. Private or by roads may be opened, laid out, or altered for the convenience of one or more

residents or freeholders of any road district in the same manner as public roads are opened, laid out, or altered, except that only one petitioner shall be necessary, who must be either a resident or freeholder in said road district; and the Board of Supervisors may for like cause order the same to be viewed, opened, laid out, or altered, the person for whose benefit said road is required paying the damages awarded to land owners, and keeping the same in repair; provided, that the petitioners must accompany the petition with the bond mentioned in section two thousand six hundred and eighty-three, conditioned as provided in said section, and with a further condition that the bondsmen will pay to the person over whose land said road is sought to be opened his necessary costs and disbursements in contesting the opening of such road, in case the petition be not granted, and the road finally not opened; provided, that all private roads opened or laid out under the provisions of this act shall be upon section or half-section lines wherever practicable.

71 Cal. 403; 83 Cal. 511; 102 Cal. 433; 107 Cal. 533, 534; 139 Cal. 130, 134, 135.

§ 2693. In all cases where consent to use the right of way for a highway is voluntarily given, purchased, or condemned, and paid for, either an instrument in writing conveying the right of way and incidents thereto, signed and acknowledged by the party making it, or a certified copy of the decree of the Court condemning the same, must be made and filed and recorded in the office of the Recorder of the county, in which the land so conveyed or condemned must be particularly described.

§ 2694. Whenever highways are laid out to cross railroads, canals, or ditches, on public lands, the owners or corporations using the same must, at

their own expense, so prepare their roads, canals, or ditches, that the public highway may cross the same without danger or delay. And when the right of way for a public highway is obtained through the judgment of any Court over any railroad, canal, or ditch, no damages must be awarded for the simple right to cross the same.

§ 2695. When the alteration of an old or the opening of a new road makes it necessary to remove fences on land given, purchased, or condemned, by order of a Court for road or highway purposes, notice to remove the fences must be given by the Road Overseer to the owner, his occupant or agent, or by posting the same on the fence; and if the same is not done within ten days thereafter, or commenced and prosecuted with due diligence, the Road Overseer may cause it to be carefully removed at the expense of the owner, and recover of him the cost of such removal, and the fence material may be sold to satisfy the judgment.

77 Cal. 17; 89 Cal. 14.

§ 2696. Whenever it shall become necessary to acquire land in order to raise the banks along any stream, or remove obstructions therefrom, or widen, change, deepen or straighten their channels for the purpose of protecting any public road or highway (or to construct flumes, ditches or canals, or make other improvements for the purpose of carrying off storm-waters or floods to a place of safety), the board must, by order, direct proceedings to procure land necessary for such purpose to be instituted by the district attorney of the county, in the name of the county, under and as provided in title seven of part three of the Code of Civil Procedure. [Amendment approved March 3, 1903. In effect in sixty days.]

ERECTION AND MAINTENANCE OF BRIDGES.

- § 2711. Bridges, how maintained, and by whom.
- § 2712. When aid may be given by county for bridge.
- § 2713. Construction and repair of bridges to be let out by contract.
- § 2714. When one Overseer fails to act, who may repair bridge.
- § 2715. When Supervisors must repair bridge.
- § 2716. Semi-annual meetings for highway and bridge purposes.

§ 2711. All public bridges not otherwise specially provided for, are maintained by the road district in which they are situate, the districts which they unite, and the country at large, in the same manner as highways, and under the management and control of the Road Overseer and the Board of Supervisors, the expense of constructing, maintaining, and repairing the same being primarily payable out of the road fund of the district in the hands of the County Treasurer, and from road taxes.

137 Cal. 206.

§ 2712. Whenever it appears to the Board of Supervisors that any road district is or would be unreasonably burdened by the expense of constructing, or by the maintenance and repairs of any road, bridge or tunnel connecting or forming a part of a road, or the purchase of toll-roads, they may, in their discretion, cause a portion of the aggregate cost or expense to be paid out of the general road fund of the county, or by a vote of the majority of the Board of Supervisors, said board may, in their discretion, order a portion of the cost of construction and repairs of bridges and tunnels connecting or forming a part of a road, or a portion of the cost of the purchase of toll-roads, or cost of material for road construction to be paid out of the county general fund, as well as the general road fund; provided, however, that said board shall not take any money out of the county general fund for cost of material for road construction, except by unanimous vote of the board of supervisors; and

provided further, that the said board may in their discretion, by a four-fifths vote, pay, or cause to be paid, out of the county general fund or the general road fund, or both or either, the whole or a portion of the cost required to construct, build, reconstruct, rebuild, or repair any and all bridges or roads in the county, or both, destroyed or damaged by storms, floods or other calamities. [Amendment approved May 1, 1911; in effect immediately.]

78 Cal. 496; 150 Cal. 456; 153 Cal. 371, 373; 12 Cal. App. 433.

Note. Section 2712 was amended twice in 1911, on March 22, 1911, and on May 1, 1911. For act of March 22, 1911, see Stats. 1911, Chap. 248.

§ 2713. No bridge, the cost of construction or repair of which will exceed the sum of two hundred dollars, must be constructed or repaired except on the order of the Board of Supervisors. When ordered to be constructed or repaired, the contract therefor may in their discretion, be let out, and if let, it must be after reasonable notice given by the Board of Supervisors, by publication at least once a week for two weeks in a county newspaper; and if no paper is published in said county, then by three posted notices, one at the courthouse, one at the point to be bridged, and one at some other neighboring place in the county. All bids shall be sealed; they shall be opened at the time specified in the notice, and the contract awarded to the lowest responsible bidder. The board may, however, reject any and all bids. The contract and bond for its performance must be entered into and approved by the Board of Supervisors; except, however, in cases of great emergency, by the unanimous consent of the whole board they may proceed at once to replace or repair any and all structures, of whatever nature, without notice. Bridges crossing the line between counties must be constructed by the counties into which such

bridges reach, and each of the counties into which any such bridge reaches shall pay such portion of the cost of such bridge as shall have been previously agreed upon by the boards of supervisors of said counties; provided, that where such bridge or bridges, crossing the line between counties, shall reach within the limits of an incorporated town, or city, or city and county, the provisions of this section shall apply. [Approved March 22, 1907. In effect immediately.]

134 Cal. 561; 137 Cal. 206, 207.

§ 2714. If the Road Overseer of one district, after five days' notice from the overseer of an adjoining district to aid in the repair of a bridge in which each are interested, fails so to aid, the one giving notice may make the necessary repairs, and must be allowed a pro rata compensation therefor by the Board of Supervisors out of the road fund of the defaulting district. Bridges crossing the line or lines between cities or towns and road districts, or between cities or towns, may be constructed and maintained by the cities or towns and from the road fund of the road district or by the cities or towns into which such bridges extend. Any such bridge may be constructed by contract let as provided by law by either city or town or by the county into which such bridge extends or wherein such bridge is located, and any such city, town or county may contribute toward the cost and expense of the construction or maintenance of such bridge by the appropriation for such purpose of any funds in the treasury of such city, town or county not otherwise appropriated, upon such terms and conditions as may be prescribed by ordinance or resolution of the governing body of such city, town or county aiding in the construction or maintenance of such bridge; provided that if the proportion to be paid by any such city, town or county cannot be otherwise determined, the cost of construction or main-

tenance of any such bridge shall be borne equally by the city or town and from the road fund of the road district or by the cities or towns into which such bridge extends. The proceeds of any bonds heretofore or hereafter authorized by the voters of any such city, town or county for the acquisition, construction or completion of any such bridge, or any portion thereof, may be expended or contributed as herein provided. [Amendment approved March 1, 1911; in effect immediately.]

§ 2715. If the overseer of any road district, chargeable with the repair of a bridge, fails to make the needed repairs, after being informed that a bridge is impassable or unsafe, and is requested to make the same by two or more freeholders of the district in which it is situate, or the two districts which it unites, the freeholders may represent the facts to the Board of Supervisors, who, upon being satisfied that the bridge is unsafe, must cause the same to be repaired, and must pay therefor from the funds of the district chargeable therewith, or, if deemed necessary, from the general road fund.

§ 2716. The Supervisors may appoint, semi-annually, a special meeting, at which the Road Overseers, on days set apart for their respective districts, must be present; and at such special meetings so appointed the Supervisors must hear highway and bridge reports and complaints from officers and citizens; after which such orders must be made and such action had regarding the same as the public welfare demands.

137 Cal. 206.

OBSTRUCTIONS AND INJURIES TO HIGHWAYS.

§ 2731. Removal of encroachments.

§ 2732. Notice to remove encroachments.

§ 2733. Penalty for neglect.

§ 2734. If encroachment denied, action for nuisance.

§ 2735. If encroachment not denied, how removed.

- § 2736. Penalty for leaving open gates or riding off the road.
- § 2737. Penalty for obstruction or injury.
- § 2738. Penalty for injuring mile-stone or guide-post.
- § 2739. Removal of fallen trees.
- § 2740. Unauthorized felling of trees.
- § 2742. Destroying shade or ornamental trees.
- § 2743. Recovery and application of penalties and forfeitures.
- § 2744. Service of notice by publication on non-residents.

§ 2731. If any highway duly laid out or erected is encroached upon by fences, buildings, or otherwise, the Road Overseer of the district may, orally or in writing, require the encroachment to be removed from the highway.

77 Cal. 16; 90 Cal. 385; 99 Cal. 445, 446; 126 Cal. 580; 136 Cal. 549.

§ 2732. Notice must be given to the occupant or owner of the land, or person causing or owning the encroachment, or left at his place of residence if he be known to the person giving such notice and reside in the county, if not, it must be posted on the encroachment, specifying the breadth of the highway, the place and extent of the encroachment, and requiring him to remove the same within ten days.

99 Cal. 445, 447.

§ 2733. If the encroachment is not removed, or commenced to be removed and diligently prosecuted, prior to the expiration of ten days from the service or posting the notice, the one who caused, owns, or controls the encroachment forfeits ten dollars for each day the same continues unremoved. If the encroachment is such as to effectually obstruct and prevent the use of the road for vehicles, the Overseer must forthwith remove the same.

136 Cal. 550.

§ 2734. If the encroachment is denied, and the owner, occupant, or person controlling the matter

or thing charged with being an encroachment refuses either to remove or permit the removal thereof, the Road Overseer must commence in the proper Court an action to abate the same as a nuisance; and if he recovers judgment, he may, in addition to having the same abated, recover ten dollars for every day such nuisance remained after notice, and also his costs in said action.

71 Cal. 36, 37; 77 Cal. 16, 17, 18; 99 Cal. 445, 446, 447; 126 Cal. 580; 136 Cal. 549.

§ 2735. If the encroachment is not denied, but is not removed for five days after the notice is complete, the Road Overseer may remove the same at the expense of the owner, occupant, or person controlling the same, and recover his costs and expenses, as also for each day the same remained after notice was complete, the sum of ten dollars, in an action for that purpose.

136 Cal. 549.

§ 2736. No gates must be allowed on any public highway except such as are allowed by the Board of Supervisors, in accordance with the provisions of subdivision eleven, section two thousand six hundred and forty-three, and when so allowed they must be maintained at the expense of the owner or occupant at whose request or for whose benefit they were erected. If such expense is not paid, the gate must be removed as an obstruction. Any one who leaves open such gate, or willfully and unnecessarily rides over ground adjoining the road on which the gate is erected, forfeits to the injured party treble damages.

§ 2737. Whoever obstructs or injures any highway, or diverts any watercourse thereon, or drains water from his land upon any highway, to the injury thereof, by means of ditches or dams, is liable to a penalty of ten dollars for each day such obstruction or injury remains, and must be pun-

ished as provided in section five hundred and eighty-eight of the Penal Code. Any person, persons, or corporation who shall be storing or distributing water for any purpose, and shall permit the water to overflow or saturate, by seepage, any highway, to the injury thereof, shall, upon notification of the road commissioner of the district where such overflow or seepage occurs, repair the damages occasioned by such overflow or seepage; and should such repair not be made within a reasonable time by such person, persons, or corporation, said road commissioners shall make such repairs, and recover the expense thereof from such person, persons, or corporation, in an action at law. All persons excavating irrigation, mining, or draining ditches across public highways shall be required to bridge said ditches at such crossings, and upon neglect to do so, the road commissioner for that road district shall construct the same and recover the cost of constructing said bridge or bridges of such persons by action, as provided in this section; provided, that the Supervisors of any county may construct and maintain bridges over any and all ditches used exclusively for irrigation purposes, and which cross public highways in the county over which they have authority, and may, with the consent of the owners of such ditches, declare any and all such bridges to be public property, and maintain and keep the same in repair at the expense of such county. And whoever willfully injures any public bridge is hereby declared to be guilty of a misdemeanor, and is also liable for actual damages for such injury, to be recovered by the county in a civil action; provided further, that every person who knowingly allows the carcass of any dead animal (which animal belonged to him at the time of its death) to be put or to remain within one hundred feet of any street, alley, public highway, or road in common use, and every person who puts the carcass

of any dead animal within one hundred feet of any street, alley, highway, or road in common use, or who shall deposit on any highway any refuse or waste tin, sheet-iron, or broken glass, is guilty of a misdemeanor. [Amendment approved March 27, 1897; Stats. 1897, ch. clxi. In effect immediately.]
68 Cal. 360; 136 Cal. 550; 10 Cal. App. 140.

§ 2738. Whoever removes or injures any mile-board, or milestone, or guide-post, or any inscription on such, erected on any highway, is liable to a penalty of ten dollars for every such offense, and punishable as provided in section five hundred and ninety of the Penal Code. It shall be the duty of the Board of Supervisors to cause guide-posts, with suitable inscriptions thereon, to be erected at all road crossings and forks of roads outside of any corporate limits.

§ 2739. Any person may notify the occupant or owner of any land from which a tree or other obstruction has fallen upon any highway to remove such tree or obstruction forthwith. If it is not so removed, the owner or occupant is liable to a penalty of one dollar for every day thereafter till it is removed, and the cost of removal.

§ 2740. Whoever cuts down a tree so that it falls into any highway must forthwith remove the same, and is liable to a penalty of ten dollars for every day the same remains in such highway.

136 Cal. 550.

§ 2742. Whoever digs up, cuts down, or otherwise maliciously injures or destroys any shade or ornamental tree on any highway, unless the same is deemed an obstruction by the Road Overseer, and removed under his direction, forfeits one hundred dollars for each such tree.

Injuries to highways, etc. Penal Code, sec. 588.

§ 2743. All penalties or forfeitures given in this chapter, and not otherwise provided for, must be recovered by the Road Overseer or Commissioner of the respective road districts by suit in the name of the county in which said road district is situated, and be paid into the Road Fund of his district.

71 Cal. 37; 99 Cal. 213; 136 Cal. 549.

§ 2744. When notice is required to be served upon non-resident landowners under any of the provisions of this act, such notice shall be deemed to have been served by publication, as authorized by the Board of Supervisors; and for all purposes, non-resident land owners upon whom personal service cannot be made within the county shall be treated as non-consenting land owners.

137 Cal. 518.

Note.—The act reconstructing this chapter contained the following preliminary and closing sections:

Section 1. Chapter two of title six of part three of an act of the Legislature of the State of California, entitled "An Act to establish a Political Code," approved March 12, 1872, and each and every section of said chapter two, are hereby repealed, and a new chapter two of title six of part three of said Political Code is hereby enacted and substituted in place of said repealed chapter, to read as follows:

Sec. 2. All laws concerning roads and highways in conflict with this act, and all laws applicable to particular counties of this State concerning roads and highways, are hereby repealed; provided, that any proceedings commenced before this act takes effect for the alteration, establishment, or abandonment of any road or highway, may be conducted under the provisions of the law under which said proceedings were commenced; provided further, that nothing herein contained shall be

deemed to authorize the levy or collection of a road poll tax, or property road tax, within municipalities existing under the laws of this State, wherein work and improvements upon the streets is done by virtue of any law relating to street work and improvements within such municipality. Nor shall any such incorporated city or towns be by the Supervisors of the county included or embraced in any road district by them established under this act. [Approved February 28, 1883.]

PERMANENT ROAD DIVISIONS.

- § 2745. Road divisions.
- § 2746. Petition for formation of road division, and what it must contain.
- § 2747. Petition must be accompanied by affidavit.
- § 2748. Publication of petition and notice.
- § 2749. Hearing of petition.
- § 2750. Boundaries of permanent road division.
- § 2751. Petition for improvement of roads, and what it must contain.
- § 2752. Duty of Board on receipt of petition.
- § 2753. Funds may be set apart.
- § 2754. Duty of Board with regard to special tax. Election.
- § 2755. Notices must specify what.
- § 2756. Elections to vote upon special tax proposition.
- § 2757. Ballots.
- § 2758. Officers must certify result of election.
- § 2759. Supervisors to compute, levy, and collect tax.
- § 2760. Election for issuing road bonds.
- § 2761. Posting and publishing notice.
- § 2762. Conduct of election.
- § 2763. Certificate of result.
- § 2764. Form of bonds.
- § 2765. Rate of interest, what bonds must contain, how sold.
- § 2766. Reversion of funds.
- § 2767. Work to be done by contract.
- § 2768. Method of procedure in opening bids.
- § 2769. Payments on account.
- § 2770. Money remaining in funds. When division lapses.
- § 2771. Where notices must be published.
- § 2772. Expenses of organizing division.
- § 2773. Construction of Act.

§ 2745. Any portion of a county not contained in a permanent road division may be formed into

a permanent road division under the provision of this act, and when so formed shall have the powers herein enumerated and such as may hereafter be conferred thereon by law. [Approved March 19, 1907.]

§ 2746. A petition for the formation of a permanent road division (naming it) may be presented to the board of supervisors of the county wherein the division is proposed to be formed. It shall be signed by at least a majority of the land owners residing within the proposed division, and shall contain:

1. The boundaries of the proposed division;
 2. The number of acres therein contained and the assessed valuation of the same accordingly to the last completed assessment roll of the county;
 3. The value of the improvements on real estate and of the personal property within the proposed division according to the last completed assessment roll;
 4. The number of inhabitants therein as near as can be ascertained;
 5. A particular description as to location of the road or roads which it is desired to construct or improve and the necessity for such work;
 6. By the last completed assessment roll is meant the last roll as made up by the assessor, with the changes ordered by the supervisors sitting as a board of equalization. [Approved March 19, 1907.]
- 51 Cal. 416; 71 Cal. 37; 136 Cal. 549.

§ 2747. Such petition shall be accompanied by an affidavit stating that affiant has compared the valuations therein given with those on the last completed assessment roll and that the same are complete and correct. [Approved March 19, 1907.]

§ 2748. Such petition shall be presented at a regular meeting of the board of supervisors or at a

special meeting called to receive and consider the same, and shall be published at least once a week for three successive weeks in a newspaper published in the county before the time at which it is to be presented, together with a notice stating the time of the meeting at which the board will be asked to consider the petition, which time shall not be more than ten days after the last publication of the petition and notice. [Approved March 19, 1907.]

§ 2749. On the day named in the notice the board shall hear the petition and may adjourn such hearing from time to time, but not longer than one month in all. On the final hearing they may make such changes in the boundaries of the proposed road division as they may find to be proper and shall define and establish such boundaries; but such changes shall not include any territory outside of the boundaries described in the petition until the board has given at least fifteen days' notice of its intention to include such territory in such road division. Such notice shall be given by publication at least once a week for three successive weeks in a paper published in the county, and by leaving a copy thereof at each place of abode in said territory. Approved [March 19, 1907.]

§ 2750. The boundaries established by the board shall be the boundaries of such permanent road division until the same shall be changed in the manner provided by law; but if it shall appear to the board that the boundaries of any such division have been incorrectly described, it shall direct the county surveyor to ascertain and report a correct description of the boundaries in conformity with the orders of the board. At the first regular meeting of the board after the filing of the county surveyor's report, they shall cause notice to be published in some newspaper published in the county that the report will be considered at the next

regular meeting of the board, naming the day, and at such meeting the board shall ratify the report of the surveyor, with such modifications as they deem necessary. And the boundaries so established shall be the legal boundaries of such permanent road division. [Approved March 19, 1907.]

§ 2751. At the time of forming a permanent road division, or at any time thereafter, any ten or more resident freeholders thereof, may petition the board of supervisors to have plans prepared for the construction or improvement of the road or roads or any part thereof mentioned in the petition for the formation of said division, or of the whole or any part of any other road in the division. Such petition shall state:

1. The recommendations of the petitioners as to the materials to be used and the manner of constructing or repairing said road or roads;

2. An estimate of the probable cost of such work;

3. A request that the board appropriate for said work a sum of money, naming it, from the general road fund of the county;

4. A request that the board appropriate for said work a sum of money, naming it, from the road district funds in the road districts of which said permanent road division forms a part;

5. A request that a special tax be levied or that the bonds of the division be issued to raise the balance necessary for said work. [Approved March 19, 1907.]

§ 2752. Upon receiving such petition the board shall proceed to prepare, or cause to be prepared, plans and specifications for and an estimate of the cost of the work mentioned in said petition, and for any other road, bridge, culvert or work considered a necessary part of the permanent road petitioned for. [Approved March 19, 1907.]

§ 2753. When the board has adopted plans and specifications for said work they may set apart therefor such a sum from the general road fund of the county as they shall consider equitable; also, such sum from the funds of the district or districts of which said division is a part, as they consider equitable, but not less than seventy-five per cent of the sum which bears the same ratio to the whole fund of the district or districts which the assessed valuation of the division bears to the whole valuation of the district or districts of which it forms a part. The board may in its discretion give more than this percentage. These sums shall be set apart in a fund, to be known as the permanent road fund of ——— division (using the name of the division.) [Approved March 19, 1907.]

§ 2754. When a special tax is petitioned for the board of supervisors shall immediately order an election within such road division to determine whether the same shall be levied; and the board may in its discretion submit to the electors at such election the question whether the balance of the estimated cost of the proposed work shall be raised by a special tax in one, two, or three successive years, raising an equal amount each year. Such election must be called by posting notices not more than one mile apart, and not less than three such notices, along the road or roads proposed to be improved or constructed, at least fifteen days before the election, and by publishing the same at least once a week for three successive weeks in a newspaper published in the county. [Approved March 19, 1907.]

§ 2755. Such notices must specify the time and place or places of holding the election, the amount of money proposed to be raised and the purpose for which it is to be used, including a brief description of the proposed work and materials to be used, and

whether it is proposed to raise the amount in one, two or three successive years. If in more than one year, the amount proposed to be raised each year. [Approved March 19, 1907.]

§ 2756. For the purposes of this election, the supervisors shall establish, by order, one or more precincts and appoint three judges for each to conduct the same, and it must be held in all respects as nearly as practicable in conformity with the general election law; but no particular form of ballot need be used, nor shall any informality in conducting such election invalidate the same if the election shall have been otherwise fairly conducted. [Approved March 19, 1907.]

95 Cal. 469; 99 Cal. 213; 136 Cal. 549.

§ 2757. At such elections the ballots shall contain the words "Tax—Yes" or "Tax—No." [Approved March 19, 1907.]

102 Cal. 33.

§ 2758. The officers of the election must certify the result of the election to the board of supervisors, giving the whole number of votes cast, the number for and the number against the tax. If the majority shall be against the tax, the money theretofore transferred to the fund of such division shall revert to the funds from which it was taken. [Approved March 19, 1907.]

§ 2759. If the majority of the votes cast are for the tax, the supervisors must at the time of levying the county taxes levy a tax upon all the taxable property in the division sufficient to raise the amount voted for the current fiscal year. The rate of taxation shall be ascertained by deducting fifteen per cent for anticipated delinquencies from the aggregate assessed value of the property in the division as it appears on the assessment roll of the county and then dividing the sum voted by the

remainder of such aggregate assessment value. The tax so levied shall be computed and collected in the same manner as state and county taxes, and when collected shall be paid into the county treasury for the use of the division in which the tax is voted. [Approved March 19, 1907.]

§ 2760. If the petition mentioned in section 2751 of this code asks for the issuance of bonds the supervisors shall call an election in such road division and submit to the electors thereof the question whether the bonds of the division shall be issued. Such election must be called by posting notices not more than one mile apart and not less than three such notices, along the fifteen days before the election, and by publishing the same at least once a week for three successive weeks in a newspaper published in the county. The supervisors shall in such notice designate the polling place or places and define the boundaries of the election districts, but no election precinct shall be part in one and part in another of such districts. [Approved March 19, 1907.]

§ 2761. Such notice must contain:

1. The time and place or places of holding such election;

2. The name of three judges for each election district to conduct the same;

3. The hours during the day in which the polls will be open, not less than eight;

4. The amount and denomination of the bonds; the rate of interest, not exceeding seven per cent; and the number of years, not exceeding twenty, any part of said bonds shall run;

5. The purpose for which it is to be used, including a brief description of the proposed work and the materials to be used;

6. The signature of the chairman of the board, attested by the county clerk. [Approved March 19, 1907.]

§ 2762. Such election shall be conducted as near as practicable in accordance with the general election law, but no particular form of ballot need be used. No informality in conducting such election shall invalidate the same if the election shall have been otherwise fairly conducted. At such elections the ballots shall contain the words "Bond—Yes" or "Bond—No." [Approved March 19, 1907.]

§ 2763. The officers of the election must certify the result of the election to the board of supervisors, giving the whole number of votes cast and the number for and the number against the bonds. If two-thirds of those voting thereon are in favor of issuing such bonds, then the board of supervisors shall cause an entry of that fact to be made upon the minutes, and thereupon they shall be authorized and empowered to issue the bonds of said division to the number and amount provided for in such proceedings, payable out of the funds of such division, and that the money shall be raised by taxation upon the property in said district for the redemption of said bonds, and the payment of interest thereon, but the total amount of bonds so issued shall not exceed fifteen per cent of the taxable property of the division as shown by the last equalized assessment roll of the county. [Approved March 19, 1907.]

§ 2764. The supervisors, by an order entered upon the minutes, shall prescribe the form of said bonds and of the interest coupons attached thereto, and shall fix the time when the several bonds shall become due, not exceeding twenty years from the date thereof. [Approved March 19, 1907.]

§ 2765. Such bonds shall bear no greater rate of interest than seven per cent per annum, and the interest shall be payable annually. The bonds and each coupon shall bear the autograph or fac simile printed signature of the chairman of the board and

of the county clerk. Said bonds shall be sold by the county treasurer, after reasonable notice, to the highest and best bidder, but not for less than par and accrued interest, if any. [Approved March 19, 1907.]

§ 2766. If at the election mentioned in section sixteen of this act, an issue of bonds is not authorized, the money transferred to the fund of the division shall revert to the funds from which it was taken. [Approved March 19, 1907.]

§ 2767. The road work provided for in this act shall be done by contract let to the lowest responsible bidder in accordance with the provisions of section twenty-six hundred and forty-three of the Political Code of California. The successful bidder shall give a bond in such sum as the supervisors shall provide, conditioned for the faithful performance of the contract, and for the payment of all labor employed and material used in said work, and such bondsmen shall be jointly and severally liable for the payment of all such labor employed and such material used. [Approved March 19, 1907.]

§ 2768. Before opening the bids for doing the work herein provided for, the supervisors shall appoint two inspectors, residents of the division, both of whom shall not belong to the same political party, and fix their compensation, not exceeding thirty cents an hour for the time actually spent in the performance of their duties, which compensation shall be paid out of the funds of the division. It shall be the duty of the inspectors to inspect from time to time the work being done under the contract. They shall file with the board of supervisors at least once a month written reports on the manner in which the contractor is performing the work, setting forth in detail any objections they or either of them may have to the

manner in which the work is being done, with recommendations as to changes desirable and provided for in the plans and specifications. They shall also estimate the amount of work of an unsatisfactory nature done since their last report and the supervisors shall make no payment on account of such alleged unsatisfactory work until the objections have been inquired into or until the contractor shall have performed the work in strict compliance with the plans and specifications. [Approved March 19, 1907.]

§ 2769. The supervisors may, from time to time as the work progresses, make payments on account, but shall not, before the completion of the contract, pay more than seventy-five per cent of the contract price of the amount completed, and final payment shall not be made until the work has been accepted by the board. [Approved March 19, 1907.]

§ 2770. Any money remaining after the completion of the work contracted for shall remain in the fund of the road division and shall be expended only in maintaining the roads of such division. On the payment of the debts of the division or on the failure at two successive elections to vote a special tax or bonds for any proposed work such road division shall cease to exist as a permanent road division; provided, that the second election for a special tax or bond issue shall be held not less than six months nor later than one year after the election at which a special tax or bond issue has been defeated. [Approved March 19, 1907.]

§ 2771. All publications required to be made in the proceedings for the formation of a permanent road division, or the elections or other proceedings had therein, shall be published in a newspaper published within such road division if any paper is published therein; if there is no paper published within such road division, such publication shall be

made in a paper published within the county and deemed by the supervisors most likely to give notice to the residents of the road division. One publication each week for three successive weeks shall be a sufficient publication under this act, including any publication under proceedings commenced but not concluded before this act takes effect. [Approved March 19, 1907.]

§ 2772. The expenses of organizing a permanent road division and of conducting any election under the provisions of this act shall be a county charge, payable out of the general county fund. [Approved March 19, 1907.]

§ 2773. This act is intended to furnish an alternative method for accomplishing the road construction and improvement provided for herein, and does not repeal, modify, or abridge any other act or acts having for their object the construction or improvement of roads, streets, or other public highways not within the boundaries of a municipal corporation. [Approved March 19, 1907.]

TOLL ROADS.

Construction of Toll Roads, pp. 51-59.

Use of Toll Roads and Obstructions thereon, pp. 59-60.

Inspection and Repairs, pp. 60-62.

CONSTRUCTION OF TOLL ROADS.

- § 2779. Notice of and application to construct the road.
- § 2780. Special meeting of Supervisors.
- § 2781. Hearing the application.
- § 2782. Action of Supervisors.
- § 2783. Commissioners, how appointed for other counties.
- § 2784. Laying out the road.
- § 2785. Compensation of Commissioners, map and report.
- § 2786. Branches and extensions.
- § 2787. Acquisition of lands for toll roads.
- § 2788. Appropriation of damages for highways taken.
- § 2789. Plat must be made before tolls are fixed.
- § 2790. Orchards and gardens.

- § 2791. Bridging streams.
- § 2792. One road corporation using the roadbed of another.
- § 2793. How to be constructed.
- § 2794. May relay with what.
- § 2795. Milestones and posts.
- § 2796. Guide posts.
- § 2797. Inspection, certificate, and completion.
- § 2798. Erection of gates, etc.
- § 2799. Abandonment of road, and what becomes of it.
- § 2800. County may purchase road, how.
- § 2801. Appraisement and award, how made.
- § 2802. Provisions apply to all toll roads.

§ 2779. If all lands necessary for the roadbed and other purposes are not otherwise acquired as hereinafter provided, the company proposing to construct a toll road through any part of a county must publish a notice in some newspaper published therein, and if none, then in a newspaper nearest thereto, once in each week for six successive weeks, specifying the character of the road, the termini, and each town, city, or village through which it is proposed to construct it, and the time when the application hereinafter required will be made. After such notice is complete, on the day specified therein, application must be made to the Board of Supervisors of the county for authority to take the necessary land and to construct the road described in the notice.

88 Cal. 633; 95 Cal. 85.

Wagon road corporations—taking tolls: Civil Code, sec. 514 et seq.

§ 2780. On application therefor the President of the Board of Supervisors may call a special meeting to hear the application, ten days' notice thereof being served on each of the other Supervisors, either personally or by leaving it at his place of residence if absent; the expense of such special meeting and serving notices must be paid by the applicant.

§ 2781. On the hearing all residents of the county and others interested may appear and be heard. The board may take testimony, or authorize it to be taken by any officer of the county, and adjourn the hearing from time to time.

§ 2782. If it appears to the Board of Supervisors that the public interests will be promoted thereby, a majority of all the members thereof may grant the application, and by order authorize the company to take the real property necessary and appoint two Commissioners to lay out the road, who are disinterested either in the company or in any land sought to be taken or adjoining thereto. A copy of this order must be recorded in the county clerk's office before action under it is had.

§ 2783. If the route extends into more than one county, the application must specify their names, and the Board of Supervisors of each of such counties must appoint Commissioners to act in their respective counties with the Commissioner and surveyor of the company. The company must appoint one commissioner of like qualification as those appointed by the Board of Supervisors, and furnish a surveyor to accompany and act with them.

§ 2784 The Commissioners must take the oath of office, and view and lay out the road as in their judgment will best promote the public interest. They must hear all persons interested, and may take testimony; they may determine the breadth of the way, not exceeding one hundred feet, except where the company acquire a greater breadth by grant. They must make, sign, and certify an accurate survey and description of the route, and of the land necessary for the road, buildings, and gates in each county, and record the same in the office of the County Clerk thereof. When the

breadth of the road is not fixed by the Commissioners it may be fixed by the Commissioner of Highways or the Board of Supervisors of the county.

§ 2785. The company must pay to each Commissioner his expenses and four dollars a day for his services; cause their surveyor to make the map of the proposed road, which, when approved and certified by the Commissioners, must be filed with the report in the office of the Clerk of the Board of Supervisors and recorded.

§ 2786. The Directors of any such company may, with the written consent of the holders of two-thirds of the stock, proceed in the manner prescribed by the preceding seven sections to construct branches to their road, or to extend it or alter any part of its route or branches.

§ 2787. Lands, roadways, and rights to the use of land necessary for the purposes of the toll road or its appurtenances may be acquired by gift, purchase, transfer, or consent, or by condemnation as hereinabove provided for. If after any toll road company has actually constructed its road over any land, adverse claim be made to such land, the company may, without making the application to the Board of Supervisors hereinabove provided for, acquire the right of way for said road over such land by condemnation in the manner provided for in Title VII of the Code of Civil Procedure. Lands within any public highway may be granted by the Board of Supervisors or town or city authorities on such terms and for such sums as may be agreed upon. [Amendment approved March 18, 1907.]

Condemnation proceedings: C. C. P., Secs. 1237-1264 post.

§ 2788. When the road company desires the exclusive use of lands forming part of a highway,

and such use is granted by the Supervisors, the damages received therefor are to be paid to the road fund of the road district in which the same is situated.

Road company—collecting tolls: Civil Code, sec. 514 et seq.

§ 2789. When the company has obtained all necessary lands, roadways, and rights of way in any county by gift, purchase, transfer, consent or agreement, the road may be constructed or completed without making the application to the Board of Supervisors hereinbefore provided for; but before the supervisors fix the tolls to be taken on such road, an accurate survey or plat of the road must be made by a practical surveyor, signed and sworn to by the president and secretary, and filed for record in the county clerk's office of each county through which the road passes. [Amendment approved March 18, 1907.]

95 Cal. 85.

§ 2790. No such road must be laid out through any orchard of four years' growth, to the injury of the fruit trees, or any garden of four years' cultivation, or any dwelling-house or building connected with a dwelling-house, or any yard or inclosure necessary thereto, without the consent of the owner.

§ 2791. The road company may bridge any stream or river on the route of their road, when not within the limits prescribed by law for the erection and maintenance of any other bridge; and in bridging streams used for rafting lumber the bridge must be so constructed as not to prevent or endanger the passage of any raft forty feet in width.

§ 2792. No plankroad company must construct its road on the road of another company, except in case of crossings, without consent of the latter.

§ 2793. Every such road must be laid out at least fifty feet wide. The track of plank roads must be constructed eighteen feet wide, of timber, plank or other hard material. The track of turnpikes must be bedded with stone, gravel, or such other hard material found on the line thereof, to the width of eighteen feet, and faced with broken stone or gravel. The common wagon road must be graded at least twelve feet in width, and so constructed with necessary turnouts as to permit vehicles to pass each other conveniently. All the roads must be ditched on the sides when practicable, and have proper and necessary sewerage, and be so constructed that vehicles may pass on and off the track at all intersections of roads.

§ 2794. Every company that has once laid their road with plank may relay it or any part of it with broken stone, gravel, shells, or other hard material whereby they keep a good, substantial road.

§ 2795. A milestone or post must be maintained at every mile, with an inscription showing the distance from the commencement of the road. If the road commences at the end of any other road, or intersects therewith, having milestones or posts on which the distance from any city or town is marked, a continuation of that distance must also be inscribed.

Injuries to milestones, etc.: Penal Code, sec. 590.

§ 2796. A guide post must be erected at every place where the road is intersected by a public road, with an inscription showing the name of the place to which such intersecting road leads, in the direction to which the name on the guide post points.

Injuries to guide posts, etc.: Penal Code, sec 590.

§ 2797. When the road, or three consecutive miles thereof, is completed, the Commissioner of Highways or such Road Overseer or other person thereto specially appointed by the Board of Supervisors of the county, must inspect the road when requested, and if satisfied that the road conforms to the requirements of the law, must certify to the facts and file the certificate in the office of the County Clerk; for such service four dollars per day must be by the company paid to the Inspector or Commissioner. When only three miles of any plankroad are completed, if it is not the entire road, tolls must not be collected thereon for more than one year, unless the road or five consecutive miles are completed within the year.

§ 2798. When the certificate of completion is filed, toll gates may be erected and tolls collected. No toll gate, toll house, or other building must be put up within ten rods of the front of any dwelling-house, barn, or outhouse, without written consent of the owner thereof.

§ 2799. Whenever the holders of two-thirds of the stock consent, the directors of any company may abandon the whole or any part of their road at either or both ends, by written surrender thereof, attested by their seal, and acknowledged by the president and secretary as a deed or grant is acknowledged, and recorded in the Clerk's office of each county where the surrendered road lies; thereafter the surrendered road belongs to the road districts in which it lies; but the company may continue to take toll on any three consecutive miles in length not so surrendered.

99 Cal. 213; 122 Cal. 338.

Road so abandoned—becomes a highway: Sec. 2619, *supra*.

§ 2800. At any time within five years from filing the certificate of completion of any road

constructed under the provisions of this chapter, or at any time after any toll road constructed and under operation under any of the laws of this State has been in existence for ten or more years, a county within which the road or any portion thereto is located, may purchase the same at a fair cash valuation, to be fixed by seven Commissioners, all disinterested persons; three to be appointed by the Board of Supervisors of the county, three by the owners of the road, and one by the Judge of the Superior Court of the county, who must estimate the fair cash value of the road, and make report thereof, under oath, to the Board of Supervisors. If, within three months after filing the report, the appraised value thereof is tendered on behalf of the county to the owner of the road, or his authorized managing agent, in gold coin, the right of the owner to take tolls on the road is terminated, and the road to become the property of the county. [Amendment, approved March 27, 1895; Stats. 1895, p. 196. In effect March 27, 1895.]

80 Cal. 341; 99 Cal. 213; 122 Cal. 338.

§ 2801. A majority of the Board of Commissioners mentioned in the preceding section constitute a quorum, and the concurrence of a majority in making the estimate and award is binding upon the road owner if approved by the Board of Supervisors. The Commissioners must make their report within thirty days after their appointment, and if approved, the tender of the amount of the appraisal and award must be made by the County Treasurer; whether the owner conveys the road to the county or not, the report and tender operate as a conveyance to the county of the road and all its incidents and appurtenances.

§ 2802. The provisions of this article apply to all toll roads, whether owned by companies, corporations, or natural persons, and include toll roads

constructed or to be constructed and operated for the use of light vehicles for the carriage of persons, or for the use of automobiles and other horseless vehicles. [Amendment approved March 22, 1909. Stats. 1909, p. 669.]

USE OF TOLL ROADS, AND OBSTRUCTIONS THEREON.

§ 2814. Persons exempt from tolls.

§ 2815. Encroachments, how removed.

§ 2816. Who liable for penalty, and what.

§ 2817. Action for penalty or trespass.

§ 2814. The following persons, and none other, are exempt from payment of toll on wagon, turnpike, or plank roads:

1. Persons going to or from any funeral, and all funeral processions.

2. Troops in actual service of the State or of the United States, and persons going to or from a military training which by law they are required to attend.

3. Persons going to or from the courthouse in obedience to a subpoena in a criminal action.

4. Persons living within one mile of any gate by the most usually traveled road may pass it at one-half toll, when not engaged in the transportation of other or the property of others.

5. Farmers living on their farms within one mile of any gate by the most usually traveled road, may pass free when going to or from their work on such farms.

6. School children attending school within three miles of their parents' or boarding house.

7. The Road Overseer of the road district through which road passes, or the Commissioners of Highways for the purpose of inspecting the condition of the road. [Amendment approved March 12, 1880.; Stats. 1880, p. 4.]

Persons not exempt—evading payment of tolls, fine against: Penal Code, sec. 389.

§ 2815. On application by an officer of the company, the Commissioner of Highways, or Road Overseer of the district where the same exists, may inquire into any encroachment upon the lands of the company used for the purposes of the road, caused by fence, building, or otherwise, and he must, if he finds it does exist, require or cause its removal as provided for highway encroachments in article VIII, chapter II, of this Title.

99 Cal. 213.

Obstructions and injuries to highways: Secs. 2731-2744.

§ 2816. Every person who, having the control thereof, neglects to remove an encroachment after being notified thereof, or permits the same to remain after notice, unless he immediately commences and diligently prosecutes its removal to completion, is liable to a penalty of five dollars for every day of such neglect or failure.

§ 2817. An action for the penalties given by this chapter, and for any trespass on or injury to such road, may be maintained in the county where the act was done, or in that where the defendant resides, by the company.

Injuries to toll houses or turnpike gates—constitute misdemeanor: Penal Code, Sec. 589.

INSPECTION AND REPAIRS.

§ 2827. Inspection of roads, and repairs.

§ 2828. Closing gates, and penalty.

§ 2829. Defects in road, to be reported to whom.

§ 2830. Enforcing obedience to notice and requirement.

§ 2831. Fees of Commissioner or Overseer.

§ 2832. Pack trails in mountain districts.

§ 2827. Every Commissioner of Highways, or Road Overseer of the district, to whom complaint in writing is made that any part of a wagon, turnpike, or plank toll road in his county or district, or

any part of such road, the gate nearest to which is in his county or district, is out of repair, must examine it without delay, and give notice of the defect, particularly describing the same, to the person attending the gate nearest thereto. If the necessary repair is not made, or defect remedied, within three days after such notice is given, the Commissioner or Road Overseer may order such gate to be thrown open.

99 Cal. 213.

§ 2828. A gate so ordered to be thrown open must not be shut nor any toll collected thereat until the Commissioner of Highways or Road Overseer ordering it shut grants a certificate that the road is in sufficient repair, and that the gate ought to be closed. The company and their gatekeeper or other employee, violating or permitting the violation of this section, or the order made under the preceding section, are each liable in a penalty of twenty-five dollars for each offense, to be recovered by the party aggrieved.

§ 2829. Every Commissioner of Highways or Road Overseer who discovers a defect in any toll road in his county or district, or a gate placed in a situation contrary to law, must give written notice thereof to one or more of the Directors or managing agents of the company, requiring the defective road to be repaired, or the gate to be removed, within a specified time, and may order that in the meantime such gates as he specifies be thrown open.

§ 2830. If the notice and requirements are not obeyed, the Commissioner of Highways or Road Overseer must make immediate complaint to the District Attorney of the county, who must prosecute the company therefor in the name of the people for so suffering the road to be out of repair, or of having placed any gate in a situation contrary

to the law; and if convicted thereof, the company must be fined not exceeding two hundred and fifty dollars.

§ 2831. The Commissioner of Highways or Road Overseer complaining to the District Attorney, or who makes inspection and discovers defects in the road, is entitled to three dollars for each day's services in inspecting the road, or necessarily expended in prosecuting the action therefor, to be paid in case of conviction as costs. When no action is had, but repairs are made, or gate removed, on the inspection and requirement of the Commissioner of Highways or Road Overseer, the toll gatherer nearest the road so out of repair, or the gate to be moved, must pay the fees hereinbefore specified out of the tolls collected; if he refuse to pay the same, the same may be recovered by action, with costs.

§ 2832. The Boards of Supervisors of the several counties of this State are hereby authorized to permit the toll road companies heretofore or which may hereafter be organized under the provisions of this Code, for the purpose of constructing toll roads within the mountain districts of this State, to first construct on the line of their proposed toll road a pack trail for the accommodation of pack trains and horsemen and to collect tolls thereon. The Board of Supervisors shall fix the amount of license to be paid and tolls to be collected on such pack trail, and that no such permit or franchise shall be granted for a longer period than two years. [New section approved March 30, 1874; Stats. 1873-4, p. 131. In effect March 30, 1874.]

PUBLIC FERRIES AND TOLL BRIDGES.

General Provisions, pp. 63-68.

Toll Bridges, pp. 68-71.

Toll Ferries, pp. 71-73.

GENERAL PROVISIONS.

- § 2843. What Board to grant authority to construct.
- § 2844. Notice must be proved.
- § 2845. Duty of Board of Supervisors granting authority.
- § 2846. License tax and rate of tolls, how fixed.
- § 2847. Report of bridge or ferry owner or keeper.
- § 2848. Inquiry of the Board of Supervisors fixing tolls.
- § 2849. When to direct license to issue.
- § 2850. Bond, conditions and execution.
- § 2851. When bridge unites two counties.
- § 2852. Supervisors shall not act if interested.
- § 2853. Toll bridge or ferry within one mile of another, when.
- § 2854. Owner of land preferred to build bridge or ferry.
- § 2855. How lands are acquired for use of bridge or ferry.
- § 2856. Must post rates of toll.
- § 2857. Revenue derived from license, how disposed of.
- § 2858. To keep banks in repair.

§ 2843. When authority to construct a toll bridge, or to erect and keep a ferry over waters dividing two counties is desired, application must be made to the Board of Supervisors of that county situated on the left bank descending such bay, river, creek, slough, or arm of the sea.

132 Cal. 169; 134 Cal. 622; 136 Cal. 49.

Maintaining toll bridge or ferry without authority is misdemeanor: Penal Code, Sec. 386.

Power of Supervisors to license ferries: See Sec. 4041, sub. 32.

§ 2844. The Board of Supervisors must not grant authority to construct or erect a toll bridge or ferry until the notice of such intended application has been given as respectively required in Articles II and III of this chapter.

[Arts. II and III referred to include Sections 2870-2895, post.]

§ 2845. The Board of Supervisors granting authority to construct a toll bridge or to keep a public ferry, must at the same time:

1. Fix the amount of a penal bond to be given by the person or corporation owning or taking tolls on the bridge or ferry for the benefit of the county, and all persons crossing or desiring to cross the same, and provide for the annual renewal thereof.

2. Fix the amount of license tax to be paid by the person or corporation for taking tolls thereon, not less than three nor over one hundred dollars per month, payable annually.

3. Fix the rate of tolls which may be collected for crossing the bridge or ferry, which must not raise annually an income exceeding fifteen per cent on the actual cost of the construction or erection and maintenance of the bridge or ferry for the first year, nor on the fair cash value, together with the repairs and maintenance thereof for any succeeding year.

4. Make all necessary orders relative to the construction, erection, and business of licensed toll bridges or ferries which they have by law the power to make. The Board of Supervisors may, at any time they see fit, authorize and maintain fords across any water within any distance of any licensed toll bridge or ferry.

§ 2846. The license tax and rate of toll fixed as provided in the preceding section must not be increased or diminished during the term of twenty years, at any time, unless it is shown to the satisfaction of the Board of Supervisors that the receipts from tolls in any one year is disproportionate to the cost of construction or erection, or the fair cash value thereof, together with the cost of all necessary repairs and maintenance of the bridge or ferry. The license tax fixed by the

Board of Supervisors must not exceed ten per cent of the tolls annually collected.

§ 2847. Every owner or keeper of a toll bridge or ferry must report annually to the Board of Supervisors from which his license is obtained, under oath, the following facts:

1. The actual cost of the construction or erection, and equipment of the toll bridge or ferry.

2. The repairs made during the preceding year, and the actual cost thereof.

3. The expense of labor and hire of agents, and other costs necessarily incurred in and about the conduct of their business.

4. The amount of tolls collected; and

5. The estimated actual cash value of the bridge or ferry, exclusive of the franchise.

§ 2848. Whenever the Board of Supervisors are about to fix the license tax and rate of tolls on a bridge or ferry they must make inquiry into the present actual cash value and the cost of all necessary repairs and maintenance thereof, and for that purpose may examine, under oath, the owner or keeper of the same, and other witnesses, and the assessed value of the bridge or ferry on the assessment roll of the county. When the estimate of the Board is made, if the same is not agreed to by the owner or keeper of the bridge or ferry, the same must be fixed by three Commissioners, one to be appointed by the Board of Supervisors, one by the owner and keeper, and the third by the County Judge, who must hear testimony and fix such value and cost according to the facts, and report the same to the Board of Supervisors under oath. In all estimates of the fair cash value of the bridge or ferry the value of the franchise must not be taken into consideration.

§ 2849. When the cost of construction or erection and equipment of the bridge or ferry, or the

fair cash value thereof, together with the cost of needed repairs, and the conduct and maintenance of the same, is ascertained and fixed for the preceding year, the Board must, on such ascertained amount, fix the annual license tax rate of tolls, and the amount of the penal bond, and direct a license to be issued by the Clerk.

Licenses generally: See sec. 3378, Pol. C.

§ 2850. The bond required of the owner or keeper of the toll bridge or ferry must be in the sum fixed by the Board of Supervisors, with one or more sureties, and conditioned that the toll bridge or ferry will be kept in good repair and condition, and that the keeper will faithfully comply with the laws of the State and all legal orders of the Board of Supervisors regulating the same, and pay all damages recovered against him by any person injured or damaged by reason of delay at or defect in such bridge or ferry, or in any manner resulting from a noncompliance with the laws or lawful orders regulating the same. The bond must be approved by the President and filed with the Clerk of the Board of Supervisors.

Violating conditions of undertaking to keep ferry, is misdemeanor: Penal Code, sec. 387.

§ 2851. The license tax for a ferry or bridge connecting two counties must be paid to the Treasurer of the county granting it, and the license issued by the Auditor thereof; but the Treasurer of such county must pay to the Treasury of the county in which the other end or landing of the bridge or ferry is located one-half the sum so received annually, or the Auditor may issue the license on filing with him receipts for their respective halves of the tax taken from the Treasurer of each of the two counties.

§ 2852. When a Supervisor is interested in an application to erect, construct, or take tolls, or

alter tolls on a bridge or ferry, he shall not act in any of such matters. [Amendment approved April 3, 1880; Stats. 1880, p. 23. In effect April 3, 1880.]

§ 2853. No toll bridge or ferry must be established within one mile immediately above or below a regularly established ferry or toll bridge, unless the situation of a town or village, the crossing of a public highway, or the intersection of some creek or ravine renders it necessary for public convenience. In addition to the public notice hereinafter required, notice of intention to apply for authority to erect a toll bridge or ferry, as in this section provided, must be served upon the proprietor of the ferry or toll bridge already established at least ten days prior thereto, giving the time and place and grounds of such application.

114 Cal. 496; 134 Cal. 58.

§ 2854. The owner of land on either side of the waters to be crossed, and the owner of the land on the left bank descending over the owner of land on the right bank, is entitled to preference in procuring authority to construct a bridge or ferry; but where such owner fails or neglects to apply for such authority within a reasonable time after the necessity therefor arises, the Board of Supervisors may grant such authority to another.

§ 2855. When there are lands necessary for the construction, erection, or use of such bridge or ferry which cannot be procured by agreement between the owner or corporation and the landowner, the right of way and all other lands necessary for the use and construction or erection thereof may be acquired by condemnation.

§ 2856. Every licensed toll bridge or ferry must have the rates of toll as fixed by the Board of Su-

pervisors, printed or written, posted up in some conspicuous place on or near the bridge or ferry.

§ 2857. The proceeds of the license tax on ferries and toll bridges must be paid into the County Treasury for the use of roads and highways, or may be used by the Board of Supervisors at any time in the purchase of toll roads and toll bridges.

§ 2858. All ferry and toll bridge keepers must keep the banks of the streams or waters at the landings of their ferries or bridges graded and in good order for the passage of vehicles. For every day compliance herewith is neglected twenty-five dollars is forfeited, to be collected for the use of the Road Fund of the county.

TOLL BRIDGES.

- § 2870. Application for leave to construct.
- § 2871. Hearing application.
- § 2872. Action of the Board of Supervisors.
- § 2873. What the Board of Supervisors may require.
- § 2874. Use of highways.
- § 2875. How constructed over navigable waters.
- § 2876. Supervisors may regulate.
- § 2877. Channel of streams navigable by rafts to be kept clear.
- § 2878. Completion of bridge, rate of toll, and license tax.
- § 2879. Persons exempt.
- § 2880. Penalty for avoiding tolls.
- § 2881. County may purchase toll bridge.

§ 2870. Every applicant for authority to construct a toll bridge must publish a notice in at least one newspaper in each county in which the bridge or any part of it is to be, or if no paper is published therein, in an adjoining county, once in each week, for six successive weeks, specifying the location, the length, and breadth of the bridge, and the time at which the application hereinafter required will be made. After notice is given, application must be made to the Board of Super-

visors of the proper county, at any meeting specified in the notice, for authority to construct it.

§ 2871. On the hearing, any person may appear and be heard, the Board may take testimony or authorize it to be taken by any judicial officer of the county; and it may adjourn the hearing from time to time. A copy of the articles of incorporation, certified by the Secretary of State, or by the Clerk where they are filed, must be attached to and filed with the application if made by a corporation.

§ 2872. If the Board are of opinion that the public interests will be promoted thereby, it may, by the assent of a majority of all the members of the Board, grant the application by an order entered in its minutes, and particularly describing the bridge. The applicant must cause a certified copy of the order, with a copy of the application, to be recorded in the office of the Clerk of the county before proceeding under it; provided, that the Board of Supervisors shall not have power to license bridges across the Sacramento or San Joaquin rivers, the Suisun bay, or Carquinez straits, the Petaluma, Napa or Sonoma creeks, except at points above the head of navigation on said streams. [Amendment approved March 14, 1878; Stats. 1877-8, p. 52. In effect March 14, 1878.]

123 Cal. 180, 181.

§ 2873. The Board of Supervisors may, at the time of granting authority to construct a toll bridge, or order, require the bridge to be constructed within a certain time, to be of a certain width, character, or description, and to be constructed of certain materials, which order must be complied with by the owner or corporation constructing the same before license to take tolls is issued.

§ 2874. The corporation or bridge owner may use, in such manner as prescribed by the Board, so much of any public road on either side of the stream or waters as may be necessary for constructing and maintaining the bridge and toll houses.

123 Cal. 181.

§ 2875. All bridges constructed under this chapter crossing navigable streams must be so constructed as not to obstruct navigation, and must have a draw or swing of sufficient space or span to permit the safe, convenient and expeditious passage at all times of any steamer, vessel, or raft which may navigate the stream or water bridged.

79 Cal. 348.

§ 2876. The Board of Supervisors may, by order, regulate and govern the amount of weight and number of animals that may be driven on to a toll bridge at any one time, and prescribe rules for the government of the draws or swings and attendance of the same, and prescribe penalties for disobedience of such rules.

§ 2877. Any one bridging a stream navigated or navigable must at all times keep the channel above and below the bridge clear from all deposits occasioned by its erection and prejudicial to such navigation, and is liable to pay to all persons unreasonably hindered or delayed in passing such bridge with rafts or vessels all damages sustained thereby.

§ 2878. Every bridge erected under these provisions must have good and substantial railings or sidings, at least four and a half feet high. When a bridge is completed, and a certificate that it is so, and is safe and convenient for the public use, is signed by the Commissioner of Highways, or President of the Board of Supervisors, and filed

in the County Clerk's office in the county or counties in which it is located, the Directors or owner may erect a toll gate at such bridge and require such tolls as the Board of Supervisors of the county or counties from time to time prescribe. A license therefor must be issued by the Auditor of the county on giving the necessary bond and paying the license tax fixed therefor.

§ 2879. Any person going to or from a funeral, school, performing highway labor, or attending a military parade, or Court which by law he is required to attend as a witness in a criminal case, is exempt from the payment of tolls.

Person not exempt—evading toll, fine against: Penal Code, sec. 389.

§ 2880. Any person liable to pay toll forcibly or fraudulently passing the gate of a toll bridge without paying the toll is liable to a penalty of ten dollars in addition to the damages caused, to be recovered by the owner.

Passing gate of toll bridge and evading payment, fine for: Penal Code, sec. 389.

§ 2881. Within the same time, in like manner, and to the same effect that toll roads are purchased, under the provisions of sections 2802 and 2803, the county or counties, jointly acting, in which the same is situated, may purchase a toll bridge constructed under the provisions of this chapter.

TOLL FERRIES.

§ 2892. Application for leave to erect, and notice.

§ 2893. Duty of the Board of Supervisors.

§ 2894. Powers of the Board of Supervisors.

§ 2895. Penalties, how disposed of.

§ 2896. Municipal ferry not affected.

§ 2892. Every applicant for authority to erect and take tolls on a public ferry must publish a no-

tice in at least one newspaper in each county in which the ferry is or touches, or if there is no newspaper published therein, then in one published in an adjoining county, and by posting three notices in three public places in the township for four successive weeks, specifying the location and the time and place when and where the application will be made. After notice is given application must be made in writing, under oath, to the Board of Supervisors of the proper county, the landings of the proposed ferry must be described, and the names of the owners thereof given, if known; and if the applicant is not the owner of the land, that notice of the application has been served on the owner thereof at least ten days prior to the application.

§ 2893. At the hearing, proof of giving the notice, as required by the preceding section, must be made, and any person may appear and contest the application. If the Board finds that the ferry is either a public necessity or convenience, and that the applicant is a suitable person, and by reason of ownership of the landing or failure of the owner thereof to apply is entitled thereto, authority to erect and take tolls on the ferry may be granted to him for the term of twenty years.

134 Cal. 625.

§ 2894. The Board of Supervisors may make all needful rules and regulations for the government of ferries and ferry keepers, prescribing:

1. How many boats must be kept, their character, and how propelled;
2. The number of hands, boatmen, or ferrymen to be employed, and rules for their government;
3. How many trips to be made daily;
4. When and under what circumstances to make trips in the night-time;

5. Who may be ferried free of toll;
6. In what cases of danger or peril not to cross;
7. Penalties for violation of regulations;
8. In case of steamboats, the rate of speed;
9. The method of and preference in loading and crossing; and
10. How and by whom action must be brought to recover penalties.

§ 2895. Penalties recovered under this article must be paid to the County Treasury for the use of the General Road Fund of the county.

§ 2896. The provisions of article I and of article III of this chapter shall not apply to or affect any ferry owned or operated as a municipal ferry by any city and county, or incorporated city or town in this state, over waters situated in whole or in part within the limit of such city and county, incorporated city or town. [New section approved April 10, 1911; in effect immediately.]

[Articles I and III here referred to include sections 2843-2858, and sections 2892-2895 ante.]

WHARVES, CHUTES, AND PIERS.

- § 2906. Board of Supervisors to authorize construction.
- § 2907. Application, what to contain and how made.
- § 2908. Petition relative to lands not owned by applicant.
- § 2909. Notice served on non-residents.
- § 2910. Board to hear proof, and may grant authority.
- § 2911. Overflowed or tide lands granted.
- § 2912. One hundred and fifty feet on each side of wharf, etc.
- § 2913. How to obtain use of lands.
- § 2914. Dimensions of wharves, etc.
- § 2915. Franchise, what to constitute.
- § 2916. Board of Supervisors to fix rate of tolls, etc.
- § 2917. License, and the tax for.
- § 2918. To keep in good repair.
- § 2919. Restrictions on granting authority.
- § 2920. Cities and towns exempted and authorized.
- § 2921. Granting railroad right to construct.

§ 2906. The Boards of Supervisors of every county in this State may grant authority to any person or corporation to construct a wharf, chute, or pier, on any lands bordering on any navigable bay, lake, inlet, creek, slough, or arm of the sea, situate in or bounding their counties respectively, with a license to take tolls for the use of the same for the term of twenty years.

§ 2907. Application therefor must be made by publishing notice as required in section 2892, and filing a petition in writing, containing:

1. The name and residence of the applicant; and if a corporation a certified copy of the articles of incorporation;

2. A map of the waters, and the name and location thereof, and of the adjoining lands;

3. A plan of the wharf, chute, or pier proposed to be constructed, and of the land within three hundred feet thereof;

4. The names of the owners of the lands, and the quantity thereof sought to be used, and whether the right to use the same is or is to be acquired by the applicant;

5. The distance it is proposed to extend the wharf, chute, or pier into the waters;

6. The estimated cost of the construction of the wharf, chute, or pier; and,

7. The time when the application will be made.

§ 2908. When any lands are sought to be appropriated and used for a wharf, chute, or pier, of which the applicant is not the owner, or the right of way and use thereof has not been obtained by agreement, these facts and the particular description of such land must be set forth in the petition of the applicant, and a copy of the notice of application must be served on the owner thereof by the Sheriff of the county, whose official return is conclusive evidence of service, at least ten days

prior to the appointed day set for the hearing of the same.

§ 2909. When the owner of the land is a non-resident of the county, it is service of notice for the sheriff to leave a copy with the occupant or agent of the owner; if none, then to place a copy in the Post Office addressed to the owner, thirty days prior to the day set for the hearing. If the owner is a minor, insane, idiot, or decedent, notice must be served on the guardian, administrator, or other legal representative of such person.

§ 2910. On the day named in the notice, or to which the hearing is adjourned, the Board of Supervisors must hear proof of publication and service of notice; if satisfactory, the Board must hear the allegations of the petition and any objections to the granting of the application and proofs in support of each. If from the proofs it appears that the public good or convenience will be promoted thereby, the Board of Supervisors may grant to the applicant the right to erect or construct a wharf, chute, or pier, as prayed for, and to take tolls for the use of the same for the term of twenty years.

§ 2911. The grant of authority made by the Board of Supervisors, as provided in the preceding section, conveys to the grantee or applicant the right of way and all necessary use for the purposes of the wharf, chute, or pier, of any of the overflowed, submerged, or tide lands belonging to the State, particularly describing the quantity thereof in the order, as also the right of way over any swamp, overflowed, marsh, or tide lands lying between the wharf, chute, or pier and high or dry land, fifty feet in width, for twenty years.

§ 2912. The grant of authority herein provided for carries with it the right to have unincumbered

and unobstructed the land and water on each side of the wharf, chute, or pier, from high water mark to navigable water, a distance of one hundred and fifty feet, for the convenience of landing, loading, and unloading vessels, but for no other purpose.

§ 2913. Authority to construct a wharf, chute, or pier, being granted, the grantee or applicant may procure from the owner the right of way and other necessary incidental use for the wharf, chute, or pier, of any of his lands, by proceedings had under title VII, part III, of the Code of Civil Procedure. Until such use of the lands held adversely is obtained by agreement, or by the proceedings hereinbefore mentioned, there is no authority to construct a wharf, chute, or pier, or to take tolls thereon.

57 Cal. 204.

§ 2914. The wharf, chute, or pier must not be of a greater width than seventy-five (75) feet, and may extend to navigable water; provided, that a wharf constructed upon any of the navigable rivers, straits, sloughs, and inlets in this State may extend along the shores for a distance not exceeding one thousand feet, but in no case shall any wharf, chute, or pier extend into the water so far as to obstruct the free navigation of the water on which the same is situated; provided, this Act shall not apply to the water fronts of incorporated cities and towns. [Amendment, approved April 16, 1880; Stats. 1880, p. 66. In effect April 16, 1880.]

§ 2915. The orders granting authority, and agreements, contracts, deeds, and decrees of Courts granting the right of way and other use of lands, must be filed and recorded in the office of the Recorder of the county where the wharf, chute, or pier is situate, and constitutes the franchise of the applicant. The fees of the Recorder,

as also the fees of the Clerk, Sheriff, and other officers, for services rendered, must be paid by the applicant.

§ 2916. The Board of Supervisors must fix the rate of tolls or wharfage for the use of the wharf, chute, or pier, annually, which must not produce an income of less than fifteen per cent per annum, nor more than twenty-five per cent per annum on the fair cash value of the wharf, chute, or pier, and on the cost of repair and maintenance thereof, exclusive of the amount paid for license imposed by the next section; such value and cost of repair and maintenance to be fixed by the Board of Supervisors when levying the rates of tolls or wharfage, by hearing evidence and examining the assessment rolls of the county. When fixed, the rates must be furnished the owner, and a printed or written copy thereof conspicuously posted on the wharf, chute, or pier. [Amendment approved March 24, 1876; Stats. 1875-6, p. 52. In effect March 24, 1876.]

§ 2917. When the wharf, chute, or pier is completed, and the tolls or wharfage fixed, the owner is entitled to a license to take the tolls thereon for the term of one year, to be issued by the County Auditor on the payment of such license tax as the Board of Supervisors may fix, which, except that for the first year, must not be more than ten per cent of the gross receipts for tolls or wharfage for the previous year, to be paid to the County Treasurer for general road purposes.

§ 2918. Any owner or keeper of a wharf, chute, or pier, who takes toll or wharfage for the use of the same when not in good repair, or is unsafe or dangerous, forfeits the sum of twenty-five dollars, to be recovered by order of the Board of Supervisors granting authority to construct it, for the use of the

General Road Fund of the county, and is liable for all damages occasioned thereby.

§ 2919. No authority must be granted under this chapter to interfere with vested rights, nor to interfere with or infringe grants heretofore made by State authority; nor does authority to construct a wharf, chute, or pier, continue for a longer period than two years, unless the same is within that time completed.

67 Cal. 545; 146 Cal. 397.

§ 2920. The lands of the State situate in the City and County of San Francisco, and those otherwise disposed of or situate within the limits of any incorporated town or city of this State, are excluded from the provisions of this chapter. The municipal authorities of any incorporated city or town other than San Francisco may grant authority to construct wharves, chutes, and piers, as is herein provided, for the Board of Supervisors.

60 Cal. 347.

§ 2921. Boards of supervisors of counties in this State may grant to any railroad corporation authority to construct a wharf or pier on or in front of any lands owned by it bordering on any navigable bay, inlet, lake, creek, slough, or arm of the sea situate in or bounding their counties, with a license to take tolls for the use of the same for the term of the corporate existence of the said railroad corporations, not exceeding fifty years, whenever such board finds the use of said wharf or pier necessary to the exercise of the franchise of such railroad corporation for terminal purposes, and the same may be granted without offering the same for sale. Nothing contained in this chapter shall be construed to limit the powers of such boards to grant the right to such railroad corporations to build and construct for terminal purposes on and in front of any lands owned by it any wharf or pier of the

width necessary for the carrying on of the business of such railroad at such terminal, not to exceed one thousand (1,000) feet, and to the length that it may be desirable to construct the same, so that it may not prevent the navigation by boats and vessels of such navigable bay, inlet, lake, creek, slough, or arm of the sea; provided, that there shall be excluded from the operation of this section any and all territory and property under the jurisdiction or control of any incorporated city or town or any board of State harbor commissioners. All the provisions of this chapter not in conflict with anything in this section contained are hereby made applicable to all proceedings had under this section. [New section approved March 22, 1899. In effect immediately.]

MISCELLANEOUS PROVISIONS RELATING TO PUBLIC WAYS.

- § 2931. Laws of the highway.
- § 2932. Driver addicted to intoxication.
- § 2933. Notice to employer of driver's intoxication.
- § 2934. Horses to be fastened while standing.
- § 2935. Penalties, how and by whom recovered.
- § 2936. Liability of owners for damages done by drivers.
- § 2937. Exceptions to preceding sections.
- § 2938. Protection of bridges.

§ 2931. When vehicles meet, the drivers of each must turn seasonably to the right of the center of the highway, so as to pass without interference, under a penalty of twenty-five dollars for every neglect, to be recovered by the party injured. Where the whole breadth of a roadway is not worked, the center of the worked part is to be deemed the center of the highway. In time of snow, where there is a beaten track, the center of that is to be deemed the center of the highway. But this section does not apply to vehicles meeting cars running on rails or grooved tracks.

134 Cal. 164; 6 Cal. App. 674; 7 Cal. App. 477.

§ 2932. No person must employ to drive any vehicle for the conveyance of passengers upon any public highway, a person addicted to drunkenness, under penalty of five dollars for every day such person is in his employment.

§ 2933. If any driver, whilst actually employed in driving any such vehicle, is intoxicated to such a degree as to endanger the safety of his passengers, the owners, on receiving from any such passenger a written notice of the fact, verified by his oath, must forthwith discharge such driver; and if he has such driver in his service within six months after such notice he incurs a like penalty.

Intoxication of certain employees: See Penal Code, sec. 391.

§ 2934. The driver of any vehicle used to convey passengers must not leave the horses attached thereto while passengers remain in the same, without first securely fastening the horses or placing the lines in the hands of some other person, so as to prevent their running, under a penalty of twenty dollars for each offense.

§ 2935. The penalties provided by the three preceding sections are to be recovered by the District Attorney of the county in which the offender resides, for the use of the County Road Fund. Any action for a penalty incurred under the last section must be commenced within six months.

§ 2936. The owner of every vehicle running or traveling upon any road for the conveyance of passengers, is liable for all damages to persons or property done by any person in his employment as a driver while driving such vehicle, whether done willfully or negligently, or otherwise, in the same manner as such driver would be liable.

§ 2937. Nothing contained in the six preceding sections must affect any law concerning hackney coaches or carriages in any city, nor affect laws or ordinances of any city for the licensing or regulating such coaches or carriages.

§ 2938. The owner of any toll bridge, and any plank road company owning a bridge of not less than twenty feet span, may put up conspicuously at each end of it notice in these words in large characters: "Five dollars' fine for riding or driving on this bridge faster than a walk;" and whoever rides or drives faster than a walk on such bridge forfeits to the owner the sum of five dollars.

Fast driving or riding—on toll bridges, fine for: Penal Code, sec. 388.

LICENSES.

§ 3378. Bridge, ferry, wharf, chute, or pier license.

§ 3378. Licenses to take tolls on bridges, ferries, wharves, chutes, or piers are fixed annually by the Board of Supervisors. The licenses therein provided for are issued by the County Auditor, and must be obtained from the Tax Collector of the county.

Toll bridges and ferries: See sec. 2843-2895. Delinquent license tax, proceedings to collect: Stats. 1872, p. 539.

Wharves, chutes, and piers. Secs. 2906-2920, ante.

Omitting to procure license: Pen. Code, sec. 435.

ASSESSMENT OF PROPERTY

§ 3643. Ferries and toll-bridges, where assessed.

§ 3643. A ferry-boat is a vessel traversing across any of the waters of the State, between two constant points, regularly employed for the

transfer of passengers and freight, authorized by law, so to do, and also any boat employed as a part of a system of a railroad for the transfer of passengers and freight, plying at regular and stated periods between two points. Where ferries connect more than one county, the wharves, store-houses, and all stationary property belonging to or connected with such ferries, must be assessed and the taxes paid, in the county where located. The value of the franchise, and watercraft, and of all toll bridges connecting more than one county, must be assessed in equal proportions in the counties connected by such ferries or toll bridges. [Amendment, approved March 12, 1885. In effect March 12, 1885.]

POWERS AND DUTIES OF BOARD OF SUPERVISORS.

General permanent powers, pp. 82-88.
Additional powers and duties, pp. 88-90.
Buildings, p. 90.
The Road Commissioners, p. 92.
Miscellaneous provisions, pp. 92-93.

GENERAL PERMANENT POWERS.

§ 4041. General powers of board.

§ 4041. The boards of supervisors, in their respective counties, shall have jurisdiction and power, under such limitations and restrictions as are prescribed by law:

1. To supervise the official conduct of all county officers, and officers of all districts and other subdivisions of the county charged with the assessing, collecting, safe-keeping, management, or disbursement of the public revenues; to see that they faithfully perform their duties, direct prosecutions for delinquencies, and, when necessary, require them to renew their official bonds, make reports and present their books and accounts for inspection.

2. To divide the counties into townships, election, school, road, supervisor, sanitary, and other districts required by law, change the same, and create others, as convenience requires.

3. To establish, abolish, and change election precincts, and to appoint inspectors, clerks and judges of election, canvass all election returns, declare the result, and order the county clerk to issue certificates thereof; but no election precinct shall be established or abolished, or the boundaries of any precinct changed, within ninety days prior to any election.

4. To lay out, maintain, control, construct, repair, and manage public roads, turnpikes, ferries, wharves, chutes, and other shipping facilities and bridges within the county, unless otherwise provided by law, and to grant franchises and licenses to collect tolls thereon; provided, where the cost of the construction of any bridge, wharf, chute, or other shipping facilities, or any repairs thereto, that may be built or repaired under the provisions of this subdivision exceeds the sum of five hundred dollars, they must cause to be prepared and must adopt plans and specifications, strain sheets, and working details, and must advertise for bids for the construction of such bridge, wharves, chutes, or other shipping facilities, unless otherwise provided by law, in accordance with the plans and specifications so adopted. All bidders shall be afforded opportunity to examine such plans and specifications, and said board shall award the contract to the lowest responsible bidder, and the plans and specifications so adopted shall be attached to and become a part of the contract; and the person or corporation to whom the contract is awarded shall be required to execute a bond, to be approved by said board, for the faithful performance of such contract; provided, that after the submission of the bids as herein provided, the board of supervisors being advised by the county surveyor that the

work can be done for a sum less than the lowest responsible bid, it shall then be their privilege to reject all bids and to order the work done or structure built by day's work, under the supervision and control of the said surveyor; provided further, that the surveyor in such cases shall be held personally responsible (under his official bond, to construct or repair said bridge or structure) according to his plans and specifications, at a cost not to exceed the amount of the lowest responsible bid received; provided, that the road commissioners or road overseers in their respective districts shall employ all labor required and direct the conduct of work of any kind upon any and all public roads; provided, however, that where the estimated cost of the construction or repair of any turnpike, ferry, wharf, chute, or other shipping facility or bridge within the county or any building or other structure of the character referred to in subdivisions five and eight of this section or the furnishing thereof exceeds the sum of fifty thousand dollars, the board must submit to the qualified electors of the county at the next general election, the question whether such work shall be done, or whether such work shall not be done. The question so submitted shall contain a brief statement of the work to be done and the estimated cost thereof. If a majority of the votes cast on such question at such an election be in favor of performing the work, the board shall have the power to order such work done in the manner provided by law; provided, however, that when a bond election is held, as provided by law, for any of the aforesaid purposes and said bond election carries then the board may proceed at once in accordance with law to carry out the improvement or work called for in said bond election without calling or holding the election provided for in this section; and, provided, further, that in cases of great emergency, caused by flood, fire, earthquake, or act of God by the unanimous consent of the whole board, they may proceed at once to re-

place or repair any and all bridges and structures without such election or notice, the work to be done by day labor under direction of the board or by contract or by a combination of the two; if wholly or in part by contract, the contractor to be paid actual cost of material and labor expended by him in doing the work, plus 15% to cover all profit, supervision, use of machinery and tools and other expenses, provided that no more than the lowest current market prices shall be paid for material.

* * * * *

12. To levy taxes upon the taxable property of their respective counties for all county purposes, and also upon the taxable property of any district, for the construction and repair of roads and highways and other district purposes; provided, that no tax shall be levied upon any district until the proposition to levy the same has been submitted to the qualified electors of such district, and received a majority of all the legal votes cast upon such proposition.

13. To acquire and take by purchase, condemnation, or otherwise, land for the uses and purposes of public boulevards; to lay out, establish and improve public boulevards and to incur a bonded indebtedness for any of such purposes; provided, that no such indebtedness shall be incurred for any of such purposes until after the question of the issue of bonds therefor shall have been submitted to the qualified electors of the county, at a special election called for that purpose and two-thirds of the electors of the county voting at such election shall have voted in favor of issuing such bonds; said election to be called and held, and said bonds, if authorized, to be issued, sold and made payable in the manner and form prescribed by section four thousand and eighty-eight of this Code. Said boards shall also have power to maintain public boulevards.

wards, established and laid out under the provisions of this title, and to make and enforce rules and regulations for the protection, management, control and use of such boulevards.

* * * * *

26. To provide for the working of prisoners confined in the county jail, under judgment of conviction of misdemeanor, under the direction of some responsible person, to be appointed by the sheriff, whose compensation shall not exceed one hundred dollars per month, upon the public grounds, roads, streets, alleys, highways, or public buildings, or in such other places as may be deemed advisable, for the benefit of the county.

* * * * *

31. To enforce, by ordinance, within the limits of their counties, all such regulations concerning the size of wagons and vehicles of all kinds to be used on the roads or highways, and the width of tires on the same, as are not in conflict with general laws.

32. To grant licenses and franchises for constructing, keeping, and taking tolls on roads, bridges, ferries, wharves, chutes, booms, and piers, and to grant franchises along and over the public roads and highways for all lawful purposes, upon such terms and conditions and restrictions as in their judgment may be necessary and proper, and in such manner as to present the least possible obstruction and inconvenience to the traveling public.

33. To grant, on such terms, conditions, and restrictions as in their judgment may be necessary and proper, licenses and franchises for taking tolls on public roads or highways, whenever in their judgment the expense necessary to operate or maintain such public roads or highways as free public highways is too great to justify the county in so operating or maintaining them. It shall always be a condition attached to the granting of such

licenses and franchises, that such roads or highways shall be kept in reasonable repair by the person or persons to whom such licenses or franchises may be granted.

34. To enact ordinances and regulations for the construction, alteration, repair and control of all public roads and highways in the county, unless otherwise provided by law.

35. To levy a special road fund tax, not to exceed two (2) mills on the one dollar of assessed valuation, on all the property in such counties, outside of any incorporated city or town. Such tax shall be in addition to all taxes otherwise provided for, and the fund so created shall be expended for the construction and maintenance of the main public roads or county highways in the several road districts, in proportion to the amount collected from such districts; provided, that, in addition to the tax mentioned in this subdivision, the board of supervisors shall have the power, and it shall be their duty, upon the petition of a majority of the property owners of any road district, to levy a special road fund tax not to exceed two mills on the one dollar of assessed valuation on all the property in such road district to be expended in the maintenance of the public roads in such district.

* * * * *

36. To encourage, under such regulations as they may adopt, the planting and preservation of shade and ornamental trees on the public roads and highways, and on and about the public grounds and buildings of the county, and pay to persons planting and cultivating the same, for every living tree thus planted, at the age of four years, a sum not exceeding one dollar.

37. To provide by ordinance for the organization and government of districts, to protect and preserve the banks of rivers and streams and lands lying contiguous thereto from injury by overflow

or the washing thereof, and to provide for the improvements of said rivers and streams, and prevent the obstruction thereof, and to provide for the assessment, levy, and collection within such districts of a tax thereof.

* * * * *

38. To do and perform all other acts and things required by law not in this title enumerated, or which may be necessary to the full discharge of the duties of the legislative authority of the county government. [Amendment approved May 1, 1911; in effect July 15, 1911.]

ADDITIONAL POWERS AND DUTIES.

4042. May improve streams not navigable.

4043. May protect highways from damage by floods.

4047. May grant franchises for paths and roads for bicycles, etc.

4049a. Must publish annual statistical report.

4052. Must receive lands and other property granted.

§ 4042. The board may provide for widening, deepening, straightening, removing obstructions from, and otherwise improving all streams and washes within the county and also protecting the banks and adjacent lands from overflow of such streams or washes, when the same are not declared by law to be, and in fact are not, navigable for commercial purposes, the overflow of which interferes with highways; and provide regulations for the use, repair, and control thereof; but no regulations of the board, nor improvements directed, must in any manner interfere with the private rights or privileges of riparian owners, miners, or others. Whenever, in the opinion of the board of supervisors, the general fund is insufficient to defray the cost of the improvements provided for under this section, they may levy a tax or contract a bonded indebtedness therefor in the manner provided by this title. [Approved March 18, 1907; in effect immediately.]

§ 4043. Whenever it appears to the board that any public road, in any road district of the county, is in danger of being damaged by storm waters or floods, or whenever any public highway has already been damaged by storm waters or floods, it is hereby made the duty of the board to adopt such measures as may be necessary to prevent such damage, or to repair the same; and the board is hereby authorized to construct flumes, ditches, or canals, for the purpose of carrying off such storm waters or floods to a place of safety, and may condemn the right of way for such flumes, ditches or canals for such purpose; provided, however, that no more than the sum of one thousand dollars shall be used for such purpose in any one road district of the county in any one year. All moneys used for the purposes of this section may be taken from the general or road fund of the county. [Approved March 18, 1907; in effect immediately.]

§ 4047. The board of supervisors may, under such regulations, restrictions and limitations as it may provide subject to existing laws, grant franchises for the construction of paths and roads, either on the surface, elevated or depressed, on, over, across, or under the streets and public highways of their respective counties for the use of bicycles, tricycles, motor-cycles, and other like horseless vehicles propelled by the rider, and for a term not exceeding fifty years. [Approved March 18, 1907. In effect immediately.]

47 Cal. 509; 53 Cal. 394; 56 Cal. 115, 116; 64 Cal. 471; 113 Cal. 166.

§ 4049a. The board of supervisors shall cause to be prepared, and shall publish each year a statistical report showing in compendious form all the financial transactions of the county for the last fiscal year, exhibiting separately the receipts and expenditures by or on account of each office, board, commission, institution, court, and road district and

school district, and classifying the principal items of income and expenditure, so as to show the financial transactions and the financial condition of the county. [Approved March 18, 1907. In effect immediately.]

§ 4052. The board must receive from the United States, or other sources, lands, and other property granted or donated to the county for the purpose of aiding in the erection of county buildings, roads, bridges, or other specific purposes, and may use the same therefor, and may provide for the sale of the same, and the application of the proceeds thereof. [Approved March 18, 1907. In effect immediately.]
75 Cal. 457.

BUILDINGS.

§ 4072. Plans not to be altered.

§ 4073. Contracts not to be altered, etc.

§ 4072. Whenever the Board of Supervisors shall adopt plans and specifications for the erection, alteration, construction, or repair of any public building, bridge, or other public structure, such plans and specifications shall not be altered or changed in any manner whereby the cost of such building, bridge or structure shall be increased, except by a two-thirds vote of their number. [Approved March 18, 1907; in effect immediately.]

47 Cal. 508; 52 Cal. 351; 60 Cal. 165; 66 Cal. 77.

§ 4073. Whenever the Board of Supervisors shall enter into a contract for the erection, construction, alteration, or repair of any public building, bridge, or other structure, such contract shall not be altered or changed in any manner, unless they shall, by a vote of two-thirds of their number, and with the consent of the contractor, first so order. And whenever any such change or alteration is so ordered, the particular change or alteration shall be specified, in writing, and the cost thereof agreed upon be-

tween the board and the contractor. In no case shall the board pay or become liable to pay for any extra work done on, or extra material furnished for, such building or structure. [Approved March 18, 1907; in effect immediately.]

THE SEVERAL FUNDS.

§ 4085½. Innavigable streams may be declared highways.

§ 4085½. On the application of any individual, association or corporation interested, the board of supervisors of any county of this state may, by ordinance, declare all or any portion of any slough, river or stream which does not lie within or run through cultivated land lying within the county which is stocked or supplied, in whole or in part, with fish, by the state or counties and which has not been declared by law to be navigable, and which in fact is not navigable for commercial purposes, to be a public highway for the purpose of fishing in said slough, river or stream, and the same shall thereupon become and be a public highway for such purpose, subject only to the reservations hereinafter contained.

In case any owner of land adjacent to or across which such slough, river or stream flows does not consent to the use of the slough, river or stream for such purpose with the right to pass along the banks for the purpose of fishing and grant the same to the county by suitable instrument in writing, on application, the board of supervisors may contract for and purchase any or all such rights; or, if the same cannot be purchased at a satisfactory price, may authorize proceedings to be commenced to procure the same in the manner directed by title seven, part three, of the Code of Civil Procedure. [New section approved May 1, 1911.]

Condemnation proceedings: C. C. P., Secs. 1237-1264 post.

THE ROAD COMMISSIONERS.

§ 4222. Duties of.

§ 4222. The road commissioners must perform the duties required of them by law and the ordinances or orders of the board of supervisors. [Approved March 18, 1907; in effect immediately.]

MISCELLANEOUS PROVISIONS.

§ 4321. Inventories to be made annually by.

§ 4322. Supervisors must not be interested in purchases.

§ 4323. Procedure when supervisors interested in application.

§ 4325. Penalty for neglect of duty.

§ 4321. It shall be the duty of all county officers, including the supervisors, road commissioners, superintendents of hospitals, county farms, or almshouses, to make, on or before the first day of July in each year, and file with the county clerk an inventory under oath, showing in detail all county property in their possession, or in their charge. Said inventory shall be kept of record by said county clerk. A true copy of said inventory shall be delivered by such officers to their successors in office, who must receipt therefor, which receipt shall be filed with said county clerk. [Approved March 18, 1907; in effect immediately.]

§ 4322. No member of the board must be interested, directly or indirectly, in any property purchased for the use of the county, nor in any purchase or sale of property belonging to the county, nor in any contract made by the board, or other person, on behalf of the county, for the erection of public buildings, the opening or improvement of roads, or the building of bridges, or for any purpose or act as a member of a committee or board of reviewers. [Approved March 18, 1907; in effect immediately.]

§ 4323. Whenever an application is made to the board for an order, franchise, or license relating to any toll road, bridge, ferry, wharf, chute, pier, or other subject over which the board has jurisdiction, in which a majority of the board are interested, the application, by order of the board, must be transferred to the superior court of the county. The clerk of the board must thereupon certify the application, and all orders and papers relating thereto, to said superior court, and thereafter the said superior court shall have full jurisdiction to hear and determine the application. [Approved March 18, 1907; in effect immediately.]

§ 4325. Any supervisor who refuses or neglects to perform any duty imposed on him, without just cause therefor, or who willfully violates any law provided for his government as such officer, or fraudulently or corruptly performs any duty imposed on him, or willfully, fraudulently or corruptly attempts to perform an act, as supervisor, unauthorized by law, in addition to the penalty provided in the Penal Code, forfeits to the county five hundred dollars for every such act, to be recovered on his official bond, and is further liable on his official bond, to any person injured thereby, for all damages sustained. [Approved March 18, 1907; in effect immediately.]

155 Cal. 754.

PROVISIONS
OF THE
CIVIL CODE.

CORPORATIONS.

Railroad Corporations, pp. 97-100.

Wagon Road Corporations, pp. 100-104.

Bridge, Ferry, Wharf, Chute and Pier Corporations, pp. 105-107.

Telegraph Corporations, p. 107.

Water and Canal Corporations, pp. 107-108.

RAILROAD CORPORATIONS.

§ 465. Enumeration of powers.

§ 465. Every railroad corporation has power:

1. To cause such examination and surveys to be made as may be necessary to the selection of the most advantageous route for the railroad; and for such purposes, their officers, agents and employees may enter upon the lands or waters of any person, subject to liability for all damages which they may do thereto;

2. To receive, hold, take, and convey, by deed or otherwise, as a natural person, such voluntary grants and donations of real estate, and other property, which may be made to it to aid and encourage the construction, maintenance and accommodation of such railroad;

3. To purchase, or by voluntary grants or donations to receive, enter, take possession of, hold and use all such real estate and other property as may be absolutely necessary for the construction and maintenance of such railroads, and for all stations, depots and other purposes necessary to successfully work and conduct the business of the road;

4. To lay out its road, not exceeding ten rods wide, and to construct and maintain the same, with one or more tracks, and with such appendages and adjuncts as may be necessary for the convenient use of the same;

5. To construct their roads across, along or upon any stream of water, watercourse, roadstead, bay,

navigable stream, street, avenue, or highway, or across any railway, canal, ditch or flume which the route of its road intersects, crosses or runs along, in such manner as to afford security for life and property; but the corporation shall restore the stream or watercourse, road, street, avenue, highway, railroad, canal, ditch or flume thus intersected to its former state of usefulness as near as may be, or so that the railroad shall not unnecessarily impair its usefulness or injure its franchise;

6. To cross, intersect, join, or unite its railroad with any other railroad, either before or after construction, at any point upon its route, and upon the grounds of such other railroad corporation, with the necessary turnouts, sidings and switches, and other conveniences in furtherance of the objects of its connections; and every corporation whose railroad is, or shall be hereafter intersected by any new railroad, shall unite with the owners of such new railroad in forming such intersections and connections, and grant facilities therefor; and if the two corporations cannot agree upon the amount of compensation to be made therefor, or the points or the manner of such crossings, intersections and connections, the same shall be ascertained and determined as is provided in title VII, part III, Code of Civil Procedure (secs. 1237-1263);

7. To purchase lands, timber, stone, gravel or other materials to be used in the construction and maintenance of its road, and all necessary appendages and adjuncts, or acquire them in the manner provided in title VII, part III, Code of Civil Procedure, for the condemnation of lands; and to change the line of its road, in whole or in part, whenever a majority of the directors so determine, as is provided hereinafter; but no such change must vary the general route of such road, as contemplated in its articles of incorporation;

8. To carry persons and property on their rail-

road, and to receive tolls or compensation therefor;

9. To erect and maintain all necessary and convenient buildings, stations, depots, fixtures and machinery for the accommodation and use of their passengers, freight and business;

10. To regulate the time and manner in which passengers and property shall be transported, and the tolls and compensation to be paid therefor within the limits prescribed by law and subject to alteration, change or amendment by the legislature at any time;

11. To regulate the force and speed of their locomotives, cars, trains or other machinery used and employed on their roads, and to establish, execute and enforce all needful and proper rules and regulations for the management of its business transactions usual and proper for railroad corporations;

12. To purchase, lease or acquire the franchises, rights and property, or any part thereof, of any railroad corporation leasing or owning any railroad outside of the State of California, and to operate the same, and to use the franchises of any such road, and to build and operate extensions thereof; provided that nothing herein shall authorize any corporation to purchase the franchises, rights, and property of any railroad operated in competition with it; and to purchase, acquire and hold the stocks, bonds or other securities of any railroad corporation organized under the laws of this State or of any other State or Territory, with full power to sell the same; provided that nothing herein will authorize any corporation to purchase the stock of any railroad corporation operated in competition with it. [Amendment approved March 4, 1907. In effect immediately.]

67 Cal. 432; 92 Cal. 645; 111 Cal. 227; 153 Cal. 752; 157 Cal. 367; (sub. 1) 67 Cal. 431; 129 Cal. 10; 134 Cal. 415; (sub. 2) 129 Cal. 10; (sub. 3) 53

Cal. 227; 129 Cal. 10; (sub. 4) 53 Cal. 227; 67 Cal. 431; 134 Cal. 415; 149 Cal. 91, 92; 158 Cal. 439, 440; 2 Cal. App. 559; (sub. 5) 69 Cal. 206; 92 Cal. 645; 93 Cal. 265; 142 Cal. 392; 157 Cal. 368, 369, 370; 1 Cal. App. 443; (sub. 6) 91 Cal. 452; (sub. 7) 53 Cal. 228; 67 Cal. 431, 432; 134 Cal. 414; 152 Cal. 308; (sub. 8) 142 Cal. 392; (sub. 9) 142 Cal. 392; (sub. 11) 142 Cal. 392.

WAGON ROAD CORPORATIONS.

- § 512. Three Commissioners to act with Surveyor.
- § 513. Survey and map to be filed and approved by Supervisors.
- § 514. Tolls, etc., to be collected. Penalty for taking unlawful tolls.
- § 515. No tolls to be charged on highways or public roads.
- § 516. Rates of toll to be posted at gate.
- § 517. Toll gatherer may detain persons until they pay toll.
- § 518. Toll gatherer not to detain any person unnecessarily.
- § 519. Persons avoiding toll to pay five dollars.
- § 520. Penalties for trespasses on property of corporation.
- § 521. When capital invested is repaid, tolls to be reduced, etc.
- § 522. May mortgage and hypothecate corporate property.
- § 523. This title applies to natural persons as well as corporations.
- § 524. Franchises for construction of paths and roads for horseless vehicles.

§ 512. Where a corporation is formed for the construction and maintenance of a wagon road, the road must be laid out as follows:

Three commissioners must act in conjunction with the surveyor of the corporation, two to be appointed by the board of supervisors of the county through which the road is to run, and one by the corporation, who must lay out the proposed road and report their proceedings, together with the map of the road, to the supervisors, as provided in the succeeding section.

98 Cal. 86.

§ 513. When the route is surveyed, a map thereof must be submitted to and filed with the board of supervisors of each county through or into which the road runs, giving its general course and the principal points to or by which it runs, and its width, which must in no case exceed one hundred feet, and the Supervisors must either approve or reject the surveyor. If approved, it must be entered of record on the journal of the Board, and such approval authorizes the use of all public lands and highways over which the survey runs; but the Board of Supervisors must require the corporation, at its own expense, and the corporation must so change and open the highways so taken and used as to make the same as good as before the appropriation thereof; and must so construct all crossings of public highways over and by its road and toll gates, as not to hinder or obstruct the use of the same. [Amendment approved March 21, 1905. In effect in sixty days.]

§ 514. All wagon road corporations may bridge or keep ferries on streams on the line of their road, and must do all things necessary to keep the same in repair. They may take such tolls only on their roads, ferries, or bridges, as are fixed by the Board of Supervisors of the proper county through which the road passes, or in which the ferry or bridge is situate. But in no case must the tolls be more than sufficient to pay fifteen per cent., nor less than ten per cent. per annum, on the cost of construction, after paying for repairs and other expenses for attending to the roads, bridges, or ferries. If tolls, other than as herein provided, are charged or demanded, the corporation forfeits its franchise, and must pay to the party so charged one hundred dollars as liquidated damages. [Amendment approved March 21, 1905. In effect in sixty days.]

Toll on bridge, obtaining consent of Supervisors, see sec. 528, post.

Toll roads: Polit. Code, secs. 2779 et seq.

§ 515. When any highway or public road is taken and used by any wagon road corporation as a part of its road, the corporation must not place a toll gate on or take tolls for the use of such highway or public road by teamsters, travelers, drovers, or any one transporting property over the same.

§ 516. The corporation must affix and keep up, at or over each gate, or in some conspicuous place, so as to be conveniently read, a printed list, showing, first, the date when the franchise or privilege under which the right to collect tolls is claimed, was granted and the term of duration of said franchise; second, the date upon which rates of tolls were last fixed by the Board of Supervisors; and, third, the rates of tolls levied and demanded. Failure to comply with the provisions of this act shall work an immediate forfeiture of franchise. [Amendment approved Feb. 14, 1901. In effect immediately.]

§ 517. Each toll gatherer may prevent from passing through his gate any person, animal, or vehicle, subject to toll, until the toll authorized to be collected for such passing has been paid. [Amendment approved March 21, 1905. In effect in sixty days.]

§ 518. Every toll gatherer who, at any gate, unreasonably hinders or delays any traveler or passenger or any vehicle or animal liable to the payment of toll, or demands or receives from any person more than he is authorized to collect, for each offense forfeits the sum of twenty-five dollars to the person aggrieved. [Amendment approved March 21, 1905. In effect in sixty days.]

§ 519. Every person who, to avoid the payment of the legal toll, with his team, vehicle or horse, turns out of a wagon, turnpike, or plank road, or passes any gate thereon or ground adjacent thereto, and again enters upon such road, for each offense forfeits the sum of five dollars to the corporation injured.

§ 520. Every person who:

1. Willfully breaks, cuts down, defaces, or injures any milestone or post on any wagon, turnpike, or plank road; or,

2. Willfully breaks or throws down any gate on such road; or,

3. Digs up or injures any part of such road, or anything thereunto belonging; or,

4. Forcibly or fraudulently passes any gate thereon without having paid the legal toll;

For each offense forfeits to the corporation injured the sum of twenty-five dollars, in addition to the damages resulting from his wrongful act.

§ 521. The entire revenue derived from the road shall be appropriated: first, to repayment to the corporation of the costs of its construction, together with the incidental expenses incurred in collecting tolls and keeping the road in repair; and, second, to the payment of the dividend among its stockholders, as provided in section five hundred and fourteen. When the repayment of the cost of construction is completed, the tolls must be so reduced as to raise no more than an amount sufficient to pay said dividend, and incidental expenses, and to keep the road in good repair.

§ 522. The corporation may mortgage or hypothecate its road and other property for funds with which to construct or repair its road, but no mortgage or hypothecation is valid or binding unless at least twenty-five per cent. of the capital stock sub-

scribed has been paid in and invested in the construction of the road and appurtenances, and then only after an affirmative vote of two-thirds of the capital stock subscribed. [Amendment approved March 21, 1905. In effect in sixty days.]

80 Cal. 341.

§ 523. When a wagon, turnpike, or plank road is constructed, owned, or operated by any natural person this title is applicable to such person in like manner as it is applicable to corporations.

79 Cal. 168; 80 Cal. 341; 98 Cal. 313.

Construction of Toll Roads: See Polit. Code, secs. 2779-2831.

§ 524. The legislative or other body to whom is intrusted the government of any county, city and county, city, or town, may, under such regulations, restrictions, and limitations as it may provide, subject to existing laws, grant franchises for the construction of paths and roads, either on the surface, elevated, or depressed, on, over, across, or under the streets and public highways of any such county, city, or town, for the use of bicycles, tricycles, motorcycles, and other like horseless vehicles, for a term not exceeding fifty years. In incorporated cities no franchise must be granted for the purpose herein expressed, unless the consent in writing of the owners of a majority of the frontage upon the road or street along which said path or road is sought to be constructed, is first had and obtained, and filed with such legislative or governing body. [New section approved March 21, 1905. In effect in sixty days.]

BRIDGE, FERRY, WHARF, CHUTE, AND PIER
CORPORATIONS.

- § 528. Corporation to obtain license from Supervisors.
§ 529. In what contingencies corporate existence ceases.
§ 530. President and Secretary to make annual report, and what to contain. Damages for failing to report.
§ 531. This title to apply to natural persons alike with corporations.

§ 528. No corporation must construct, or take tolls on a bridge, ferry, wharf, chute, or pier until authority is granted therefor by the Supervisors, or other governing body having authority in that behalf. [Amendment approved March 21, 1905. In effect in sixty days.]

136 Cal. 49.

Public ferries and toll bridges: See Polit. Code, secs. 2843 et seq.

§ 529. Every such corporation ceases to be a body corporate:

1. If, within six months from filing its articles of incorporation, it has not obtained such authority from the Board of Supervisors, or other governing body having authority in that behalf; and if, within one year thereafter, it has not commenced the construction of the bridge, wharf, chute, or pier, and actually expended thereon at least ten per cent. of the capital stock of the corporation;

2. If, within three years from filing the articles of incorporation, the bridge, wharf, chute, or pier is not completed;

3. If, when the bridge, wharf, chute, or pier of the corporation is destroyed, it is not reconstructed and ready for use within three years thereafter;

4. If the ferry of any such corporation is not in running order within three months after authority is obtained to establish it, or if at any time thereafter it ceases for a like term consecutively to per-

form the duties imposed by law. [Amendment approved March 21, 1905. In effect in sixty days.]

§ 530. The president and secretary of every bridge, ferry, wharf, chute, or pier, corporation must annually, under oath, report to the Board of Supervisors, or other governing body, having authority in that behalf, of the county in which the articles of incorporation are filed:

1. The cost of constructing and providing all necessary appendages and appurtenances for its bridge, ferry, wharf, chute or pier;

2. The amount of all moneys expended thereon, since its construction, for repairs and incidental expenses;

3. The amount of its capital stock, how much paid in, and how much actually expended thereof;

4. The amount received during the year for tolls, and from all other sources, stating each separately;

5. The amount of dividends made, and the indebtedness of the corporation, specifying for what it was incurred;

6. Such other facts and particulars respecting the business of the corporation as the Board of Supervisors or other governing body having authority in that behalf may require.

This report the president and secretary must cause to be published for four weeks in a daily newspaper published nearest the bridge, ferry, wharf, pier, or chute, if required by order of the Board of Supervisors or other governing body having authority in that behalf. A failure to make such report subjects the corporation to a penalty of two hundred dollars, and for every week permitted to elapse after such failure an additional penalty of fifty dollars, payable in each case to the county from which the authority of the corporation was derived. All such cases must be reported by the Board of Super-

visors, or other governing body having authority in that behalf, to the District Attorney or City Attorney, who must commence an action therefor. [Amendment approved March 21, 1905. In effect in sixty days.]

§ 531. When a bridge, ferry, wharf, chute, or pier is constructed, operated, or owned by a natural person, this title is applicable to such person in like manner as it is applicable to corporations.

98 Cal. 314.

General provisions: Public Ferries and Toll Bridges, Polit. Code, secs. 2843-2895; Wharves, Chutes and Piers, Polit. Code, secs. 2906-2920.

TELEGRAPH AND TELEPHONE CORPORATIONS.

§ 536. May use right of way along waters, roads and highways.

§ 536. Telegraph or telephone corporations may construct lines of telegraph or telephone lines along and upon any public road or highway, along or across any of the waters or lands within this State, and may erect poles, posts, piers, or abutments for supporting the insulators, wires, and other necessary fixtures of their lines, in such manner and at such points as not to incommode the public use of the road or highway or interrupt the navigation of the waters.

149 Cal. 750.

WATER AND CANAL CORPORATIONS.

§ 551. Construction of canal, etc.

§ 551. No canal, flume, or other appliance for the conducting of water must be so laid, constructed or maintained as to obstruct any public highway; and every person or corporation owning, maintaining, operating, or using any such canal, flume or appli-

ance, crossing or running along any public highway, must construct, maintain, and keep in repair such bridges across the same as may be necessary to the safe and convenient use of such highway by the public; and, on failure so to do, the board of supervisors of the county, after seven days' notice in writing to said person or corporation, may construct or repair such bridge or bridges, and recover of such person or corporation the amount of the expenditure made in so doing. [Amendment approved March 21, 1905.]

68 Cal. 359; 98 Cal. 183.

PROVISIONS OF
THE CODE OF
CIVIL PROCEDURE

OF TRESPASS FOR CUTTING OR CARRYING
AWAY TREES.

- § 733. Trespass for cutting or carrying off trees, etc.
§ 734. Damages for timber used on public highway.

§ 733. Any person who cuts down or carries off any wood or underwood, tree or timber, or girdles or otherwise injures any tree or timber on the land of another person, or on the street or highway in front of any person's house, village or city lot, or cultivated grounds; or on the commons or public grounds of any city or town, or on the street or highway in front thereof, without lawful authority, is liable to the owner of such land, or to such city or town, for treble the amount of damages which may be assessed therefor, in a civil action, in any court having jurisdiction.

108 Cal. 201, 205, 206, 207; 140 Cal. 680. Prac. Act. 51 Cal. 304, 306; 108 Cal. 206.

§ 734. Nothing in the last section authorizes the recovery of more than the just value of the timber taken from uncultivated woodland, for the repair of a public highway or bridge upon the land, or adjoining it.

Prac. Act. 1 Cal. 396, 438.

OF EMINENT DOMAIN.

- § 1237. Eminent domain defined.
§ 1238. Purposes for which it may be exercised.
§ 1239. What estates in land may be acquired by condemnation.
§ 1240. Private property defined. Classes enumerated.
§ 1241. Facts necessary to be found before condemnation.
§ 1242. Parties may make location. May enter to make surveys.
§ 1243. Jurisdiction in Superior Court.
§ 1244. The complaint and its contents.
§ 1245. Summons, what to contain. How issued and served.
§ 1246. Who may defend. What the answer may show, and how verified.

- § 1247. Court shall have jurisdiction to regulate the mode of making crossings or of enjoying a common use.
- § 1247a. Court shall have power to regulate removal or relocating of improvements.
- § 1248. Court or jury to assess damages.
- § 1248a. Removal or relocation of street and railroad tracks, and compensation therefor.
- § 1249. The date with respect to which compensation shall be assessed, and the measure thereof.
- § 1250. New proceedings to cure defective title.
- § 1251. Payment of damages.
- § 1252. Damages, to whom paid.
- § 1253. Final order of condemnation, what to contain. When filed, title vests.
- § 1254. Putting plaintiff in possession.
- § 1255. Costs may be allowed, distribution thereof.
- § 1255a. Abandonment of proceedings and costs on abandonment.
- § 1256. Rules of practice.
- § 1257. New trials and appeals.
- § 1258. When title takes effect, and construction of.
- § 1259. When title takes effect.
- § 1260. Construction.
- § 1261. Pending proceedings not affected.
- § 1262. Rules of practice.
- § 1263. Exceptions.
- § 1264. Actions given preference over other civil actions.

§ 1237. Eminent domain is the right of the people or government to take private property for public use. This right may be exercised in the manner provided in this title.

87 Cal. 231; 91 Cal. 245, 247, 248; 130 Cal. 634; 138 Cal. 582; 145 Cal. 587; 13 Cal. App. 419.

Constitutional provisions: See Const. Cal., art. I, sec. 14; art. XII, sec. 8; art. XV, sec. 1.

§ 1238. Subject to the provisions of this title, the right of eminent domain may be exercised in behalf of the following public uses:

1. Fortifications, magazines, arsenals, navy yards, navy and army stations, lighthouses, range and beacon lights, coast surveys, and all other public uses authorized by the government of the United States.

2. Public buildings and grounds for the use of

the state, and all other public uses authorized by the legislature of the state.

3. Public buildings and grounds for the use of any county, incorporated city, or city and county, village, town or school districts; ponds, lakes, canals, aqueducts, reservoirs, tunnels, flumes, ditches or pipes for conducting or storing water for the use of any county, incorporated city or city and county, village or town, or the inhabitants thereof, or for draining any county, incorporated city, or city and county, village or town; raising the banks of streams, removing obstructions therefrom, and widening and deepening or straightening their channels, roads, highways, boulevards, streets and alleys; public mooring places for water craft; public parks, including parks and other places covered by water, and all other public uses for the benefit of any county, incorporated city, or city and county, village or town, or the inhabitants thereof, which may be authorized by the legislature; but the mode of apportioning and collecting the costs of such improvements shall be such as may be provided in the statutes by which the same may be authorized.

4. Wharves, docks, piers, chutes, booms, ferries, bridges, toll roads, byroads, plank and turnpike roads; paths and roads either on the surface, elevated, or depressed, for the use of bicycles, tricycles, motorcycles and other horseless vehicles, steam, electric and horse railroads, canals, ditches, dams, pondings, flumes, aqueducts and pipes for irrigation, public transportation, supplying mines and farming neighborhoods with water, and draining and reclaiming lands, and for floating logs and lumber on streams not navigable.

5. Roads, tunnels, ditches, flumes, pipes and dumping places for working mines; also outlets, natural or otherwise, for the flow, deposit, or conduct of tailings or refuse matter from mines; also an occupancy in common by the owners or pos-

sessors of different mines of any place for the flow, deposit, or conduct of tailings or refuse matter from their several mines.

6. Byroads leading from highways to residences, farms, mines, mills, factories and buildings for operating machinery, or necessary to reach any property used for public purposes.

7. Telegraph and telephone lines, systems and plants.

8. Sewerage of any incorporated city, city and county, or of any village or town, whether incorporated or unincorporated, or of any settlement consisting of not less than ten families, or of any buildings, belonging to the state, or to any college or university, also the connection of private residences and other buildings, through other property, with the mains of an established sewer system in any such city, city and county, town or village.

9. Roads for transportation by traction engines or road locomotives.

10. Oil pipe lines.

11. Roads and flumes for logging or lumbering purposes.

12. Canals, reservoirs, dams, ditches, flumes, aqueducts, pipes and outlets, natural or otherwise, for supplying, storing and discharging water for the operation of machinery for the purpose of generating and transmitting electricity for the supply of mines, quarries, railroads, tramways, mills and factories with electric power; and also for the applying of electricity to light or heat mines, quarries, mills, factories, incorporated cities and counties, villages or towns; and also for furnishing electricity for lighting, heating or power purposes to individuals or corporations, together with lands, buildings and all other improvements in or upon which to erect, install, place, use or operate machinery for the purpose of generating and transmitting electricity for any of the purposes or uses above set forth.

13. Electric power lines, electric heat lines, electric light lines, electric light, heat and power lines, and works or plants, for the generation, transmission or distribution of electricity for the purpose of furnishing or supplying electric light, heat or power to any county, city and county or incorporated city or town, or the inhabitants thereof.

14. Cemeteries for the burial of the dead, and enlarging and adding to the same and the grounds thereof.

15. The plants or any part thereof or any record therein, of all persons, firms or corporations heretofore, now or hereafter engaged in the business of searching public records, or publishing public records or insuring or guaranteeing titles to real property, including all copies of, and all abstracts or memoranda taken from, public records, which are owned by, or in the possession of such persons, firms or corporations, or which are used by them in their respective business; provided, however, that the right of eminent domain in behalf of the public uses mentioned in this subdivision may be exercised only for the purpose of restoring or replacing, in whole or in part, public records, or the substance of public records, of any city, city and county, county or other municipality, which records have been, or may hereafter be, lost or destroyed by conflagration or other public calamity; and provided further, that such right shall be exercised only by the city, city and county, county or municipality, whose records, or part of whose records, have been, or may be, so lost or destroyed.

16. Expositions or fairs in aid of which the granting of public moneys or other thing of value has been authorized by the constitution.

17. Works or plants for supplying gas, heat, refrigeration or power to any county, city and county, or incorporated city or town, or the inhabitants thereof, together with lands, buildings, and all

other improvements in or upon which to erect, install, place, maintain, use or operate machinery, appliances, works and plants for the purpose of generating, transmitting and distributing the same. [Amendment approved April 28, 1911; in effect immediately; all conflicting acts repealed.]

51 Cal. 271, 272; 69 Cal. 301, 302; 79 Cal. 165; 87 Cal. 232; 91 Cal. 255; 143 Cal. 570; 148 Cal. 589; 151 Cal. 267, 268; 152 Cal. 306, 307, 308; 157 Cal. 76; 2 Cal. App. 26, 559; 3 Cal. App. 674, 675; 5 Cal. App. 730; 13 Cal. App. 408, 501; (sub. 3) 62 Cal. 182, 183; 67 Cal. 660; 92 Cal. 531; 95 Cal. 111, 112; 98 Cal. 622; 119 Cal. 165; 132 Cal. 237; 2 Cal. App. 26; 13 Cal. App. 410, 411; (sub. 4) 53 Cal. 227; 56 Cal. 296; 76 Cal. 370; 79 Cal. 161, 550; 97 Cal. 679; 111 Cal. 227; 134 Cal. 414; 136 Cal. 49; 144 Cal. 214; 2 Cal. App. 26, 258; 5 Cal. App. 174; (sub. 5) 51 Cal. 271, 272; 63 Cal. 73; 73 Cal. 484, 485; 108 Cal. 90; (sub. 8) 91 Cal. 248, 253; (sub. 12) 13 Cal. App. 408, 409, 418, 419, 422; 13 Cal. App. 501; (sub. 13) 13 Cal. App. 408, 409, 418, 419, 422; 13 Cal. App. 501.

§ 1239. The following is a classification of the estates and rights in lands subject to be taken for public use:

1. A fee simple, when taken for public buildings or grounds, or for permanent buildings, for reservoirs and dams, and permanent flooding occasioned thereby, or for an outlet for a flow, or a place for the deposit of debris or tailings of a mine;

2. An easement, when taken for any other use; provided, however, that when the taking is by a municipal corporation, and is for the purpose of constructing, equipping, using, maintaining or operating any works, road, railroad, tramway, power plant, telephone line, or other necessary works or structures, for the preparation, manufacture, handling or transporting of any material or supplies required in the construction or completion by such municipal corporation of any public work, im-

provement, or utility, a fee simple may be taken if the legislative body of such municipal corporation shall, by resolution, determine the taking thereof to be necessary.

3. The right of entry upon and occupation of lands and the right to take therefrom such earth, gravel, stones, trees, and timber as may be necessary for some public use. [Amendment approved April 5, 1911.]

56 Cal. 10; 62 Cal. 183, 184; 67 Cal. 60, 660; 92 Cal. 531; 124 Cal. 616; 13 Cal. App. 420, 423; (sub. 3) 111 Cal. 229.

§ 1240. The private property which may be taken under this title includes:

1. All real property belonging to any person;

2. Lands belonging to this state, including tide and submerged lands, not within the corporate limits of any city, or city and county, or to any county, incorporated city, or city and county, village or town, not appropriated to some public use;

3. Lands belonging to the United States or owned or held by the United States in trust, or otherwise, for any purpose, except lands owned or held for light houses, post offices, or other government buildings, forts, arsenals, or other military purposes;

4. Property appropriated to public use; but such property shall not be taken unless for a more necessary public use than that to which it has been already appropriated; provided that where any such property has been so appropriated by any individual, firm or private corporation, the use thereof for a public street or highway of a municipal corporation, or the use thereof by a municipal corporation for the same public purpose to which it has been so appropriated, shall be deemed more necessary uses than the public use to which such property has been already appropriated; and provided, fur-

ther, that where property already appropriated to a public use or purpose, by any person, firm or private corporation, is sought to be taken by a municipal corporation, for another public use or purpose, which is consistent with the continuance of the use of such property or some portion thereof for such existing purpose, to the same extent as such property is then used, or to a less or modified extent, then the right to use such property for such proposed public purpose, in common with such other use or purpose, either as then existing, or to a less or modified extent, may be taken by such municipal corporation, and the court may fix the terms and conditions upon which such property may be so taken, and the manner and extent of the use thereof for each of such public purposes, and may order the removal or relocation of any structures or improvements therein or thereon, so far as may be required by such common use.

5. Franchises for toll-roads, toll-bridges, and ferries, and all other franchises; but such franchises shall not be taken unless for free highways, railroads, or other more necessary public use;

6. All rights of way for any and all the purposes mentioned in section twelve hundred and thirty-eight, and any and all structures and improvements on, over, across or along such rights of way, and the lands held or used in connection therewith shall be subject to be connected with, crossed, or intersected by or embraced within any other right of way or improvements, or structures thereon. They shall also be subject to a limited use, in common with the owner thereof, when necessary; but such uses, crossings, intersections, and connections shall be made in manner most compatible with the greatest public benefit and least private injury;

No railroad main track crossing, outside the limits of any incorporated town, city or city and county shall be at grade, unless the party propos-

ing such crossing at grade shall, at its own sole cost and expense, protect such crossing by the construction, operation and maintenance of an interlocking plant, with suitable signals and derails; but either party to such crossing may insist upon a separation of grades, in which case the cost of constructing such crossing with separate grades shall be equally divided between the railroad companies concerned; and provided further that where any such crossing has been constructed at grade, either company may, at any time thereafter, require a separation of the grades at such crossing, each company paying one-half of the expense of such separation; and provided further that the foregoing provisions shall not be construed as requiring a separation of grades where such separation is physically impracticable, and in case of any dispute or controversy as to the physical practicability of any under-grade or overhead crossing, the same shall be determined by the Superior Court of the county in which such crossing is situate in an action or proceeding brought by either party for that purpose.

7. All classes of private property not enumerated may be taken for public use, when such taking is authorized by law.

8. Proceedings to condemn lands belonging to this state are hereby authorized, and must be maintained and conducted in the same manner as are other condemnation proceedings provided for in this title; except, that in such proceedings the summons and a copy of the complaint must be served on the Governor, Attorney-General, and Surveyor-General of this State.

9. Proceedings to condemn any of said lands belonging to the United States or owned or held by the United States in trust, or otherwise, for any purpose, are hereby authorized, and must be maintained and conducted in the same manner as

are other condemnation proceedings provided for in this title; except, that in such proceedings, the summons and a copy of the complaint must be served on the United States District Attorney for the district in which the land sought to be condemned is situated and also upon the United States Surveyor-General for this State. [Amendment approved April 5, 1911; all conflicting acts repealed; in effect immediately.]

62 Cal. 183; 111 Cal. 230; 151 Cal. 266; 1 Cal. App. 144; 2 Cal. App. 560; 13 Cal. App. 409, 410, 411, 420, 421, 422, 423, 424; (sub. 1) 145 Cal. 587, 588; (sub. 2) 145 Cal. 587, 588; 151 Cal. 266, 267; (sub. 3) 111 Cal. 227; 145 Cal. 587, 588; (sub. 5) 151 Cal. 267, 268, 270.

§ 1241. Before property can be taken, it must appear:

1. That the use to which it is to be applied is a use authorized by law;

2. That the taking is necessary to such use;

3. If already appropriated to some public use, that the public use to which it is to be applied is a more necessary public use; provided, that where such property has been so appropriated by any individual, firm or private corporation, the use thereof for a public street or highway of a municipal corporation, or the use thereof by a municipal corporation for the same public purpose to which it has been so appropriated, shall be deemed more necessary uses than the public use to which such property has been already appropriated. [Amendment approved April 5, 1911; all conflicting acts repealed; in effect immediately.]

50 Cal. 506; 64 Cal. 131; 67 Cal. 62; 68 Cal. 63; 71 Cal. 480; 79 Cal. 161; 91 Cal. 253; 3 Cal. App. 676; 5 Cal. App. 730; 13 Cal. App. 407, 420, 421, 501; (sub. 3) 91 Cal. 256; 3 Cal. App. 678.

§ 1242. In all cases where land is required for public use, the State, or its agents in charge of

such use, may survey and locate the same; but it must be located in the manner which will be most compatible with the greatest public good and the least private injury, and subject to the provisions of section twelve hundred and forty-seven. The State, or its agents in charge of such public use, may enter upon the land and make examination, surveys and maps thereof, and such entry shall constitute no cause of action in favor of the owners of the land, except for injuries resulting from negligence, wantonness, or malice.

76 Cal. 412, 413; 91 Cal. 255; 122 Cal. 603; 129 Cal. 11; 133 Cal. 399; 2 Cal. App. 558; 13 Cal. App. 505.

§ 1243. All proceedings under this title must be brought in the Superior Court of the county in which the property is situated. They must be commenced by filing a complaint and issuing a summons thereon. [Amendment approved April 26, 1880; Amendments 1880, p. 118. In effect April 26, 1880.]

65 Cal. 395, 410; 74 Cal. 263; 76 Cal. 410; 83 Cal. 496, 497; 87 Cal. 231; 124 Cal. 647; 134 Cal. 589; 138 Cal. 580, 582.

§ 1244. The complaint must contain:

1. The name of the corporation, association, commission, or person in charge of the public use for which the property is sought, who must be styled plaintiff;

2. The names of all owners and claimants of the property, if known, or a statement that they are unknown, who must be styled defendants;

3. A statement of the right of the plaintiff;

4. If a right of way be sought, the complaint must show the location, general route, and termini, and must be accompanied with a map thereof, so far as the same is involved in the action or proceeding;

5. A description of each piece of land sought to be taken, and whether the same includes the whole or only a part of an entire parcel or tract. All parcels lying in the county, and required for the same public use, may be included in the same or separate proceedings, at the option of the plaintiff, but the court may consolidate or separate them to suit the convenience of parties.

When application for the condemnation of a right of way for the purposes of sewerage is made on behalf of a settlement, or of an incorporated village or town, the Board of Supervisors of the county may be named as plaintiff. [Amendment approved April 26, 1880; Stats. 1880, p. 118. In effect April 26, 1880.]

67 Cal. 60, 61, 64; 83 Cal. 510; 87 Cal. 233; 124 Cal. 609; 132 Cal. 236; 134 Cal. 416; 152 Cal. 308; 1 Cal. App. 144, 178, 180; 2 Cal. App. 554; 13 Cal. App. 502; 14 Cal. App. 789; (sub. 4) 91 Cal. 252; 122 Cal. 602; 134 Cal. 414; (sub. 5) 76 Cal. 413; 122 Cal. 602; 1 Cal. App. 182.

§ 1245. The clerk must issue a summons, which must contain the names of the parties, a general description of the whole property, a statement of the public use for which it is sought, and a reference to the complaint for descriptions of the respective parcels, and a notice to the defendants to appear and show cause why the property described should not be condemned as prayed for in the complaint. In all other particulars it must be in the form of a summons in civil actions, and must be served in like manner.

150 Cal. 325; 1 Cal. App. 144.

§ 1246. All persons in occupation of, or having or claiming an interest in, any of the property described in the complaint, or in the damages for the taking thereof, though not named, may appear, plead, and defend, each in respect to his own prop-

erty or interest, or that claimed by him, in like manner as if named in the complaint.

87 Cal. 255; 124 Cal. 609.

§ 1247. The court shall have power:

1. To regulate and determine the place and manner of making connections and crossings, or of enjoying the common use mentioned in the fifth subdivision of section twelve hundred and forty;

2. To hear and determine all adverse or conflicting claims to the property sought to be condemned, and to the damages therefor;

3. To determine the respective rights of different parties seeking condemnation of the same property.

76 Cal. 412; 124 Cal. 609, 613.

§ 1247a. The court shall also have power to regulate and determine the place and manner of removing or relocating structures or improvements, or of enjoying the common use mentioned in the fourth subdivision of section twelve hundred and forty. [New section approved April 5, 1911; all conflicting acts repealed; in effect immediately.]

§ 1248. The court, jury, or referee must hear such legal testimony as may be offered by any of the parties to the proceedings, and thereupon must ascertain and assess:

1. The value of the property sought to be condemned, and all improvements thereon pertaining to the realty, and of each and every separate estate or interest therein; if it consists of different parcels, the value of each parcel and each estate or interest therein shall be separately assessed;

2. If the property sought to be condemned constitutes only a part of a larger parcel, the damages which will accrue to the portion not sought to be condemned, by reason of its severance from the portion sought to be condemned, and the construc-

tion of the improvement in the manner proposed by the plaintiff;

3. Separately, how much the portion not sought to be condemned, and each estate or interest therein, will be benefited, if at all, by the construction of the improvement proposed by the plaintiff; and if the benefit shall be equal to the damages assessed under subdivision two, the owner of the parcel shall be allowed no compensation except the value of the portion taken; but if the benefit shall be less than the damages, so assessed, the former shall be deducted from the latter, and the remainder shall be the only damages allowed in addition to the value;

4. If the property sought to be condemned be water or the use of water, belonging to riparian owners, or appurtenant to any lands, how much the lands of the riparian owner, or the lands to which the property sought to be condemned is appurtenant, will be benefited, if at all, by a diversion of water from its natural course, by the construction and maintenance, by the person or corporation in whose favor the right of eminent domain is exercised, of works for the distribution and convenient delivery of water upon said lands; and such benefit, if any, shall be deducted from any damages awarded the owner of such property;

5. If the property sought to be condemned be for a railroad, the cost of good and sufficient fences along the line of such railroad, and the cost of cattle guards where fences may cross the line of such railroad;

6. If the removal or relocation of structures or improvements is sought, the cost of such removal or relocation and the damages, if any, which will accrue by reason thereof;

7. As far as practicable, compensation must be assessed for each source of damages separately. [Amendment approved April 5, 1911; all conflicting acts repealed; in effect immediately.]

56 Cal. 9; 64 Cal. 111; 67 Cal. 64; 68 Cal. 63;

69 Cal. 206; 79 Cal. 551; 83 Cal. 514; 91 Cal. 452; 104 Cal. 27, 28; 134 Cal. 415; 137 Cal. 622; 1 Cal. App. 445; (sub. 2) 79 Cal. 550; 3 Cal. App. 13; (sub. 3) 79 Cal. 550; (sub. 4) 64 Cal. 113; (sub. 5) 64 Cal. 112; 1 Cal. App. 181.

§ 1248a. In any proceeding taken under the provisions of this title, where any railroad, street or interurban railway tracks are situated on, upon, along or across any lands or rights of way sought to be taken therein, for road, highway, boulevard, street or alley purposes, the plaintiff shall, if the complaint contains a prayer therefor, and shows the matter hereinafter provided, obtain a final judgment of condemnation ordering, in addition to the condemnation of such lands or right of way for the purposes set forth in the complaint, the relocation or removal of any railroad, street or interurban railway tracks thereon. Where the removal or relocation of such tracks is sought in any such proceeding, the complaint must contain a description of the location and proposed location of such tracks, and must be accompanied by a map showing such location and the proposed location of such tracks. The compensation to be paid for such relocation or removal of tracks shall be ascertained and assessed in the action, as in other cases, and separately from other sources of damage. [New section approved April 10, 1911.]

§ 1249. For the purpose of assessing compensation and damages, the right thereof shall be deemed to have accrued at the date of the issuance of summons, and its actual value, at that date, shall be the measure of compensation for all property to be actually taken, and the basis of damages to property not actually taken but injuriously affected, in all cases where such damages are allowed as provided in section one thousand two hundred forty-eight; provided, that in any case in which the issue is not tried within one year after the date of the commencement of the action, unless

the delay is caused by the defendant, the compensation and damages shall be deemed to have accrued at the date of the trial. Nothing in this section contained shall be construed or held to affect pending litigation. If an order be made letting the plaintiff into possession, as provided in section one thousand two hundred fifty-four, the compensation and damages awarded shall draw lawful interest from the date of such order. No improvements put upon the property, subsequent to the date of the service of summons, shall be included in the assessment of compensation or damages. [Amendment approved April 10, 1911.]

61 Cal. 91; 68 Cal. 65; 74 Cal. 262; 83 Cal. 568; 124 Cal. 643, 644, 648; 156 Cal. 414; 10 Cal. App. 380, 381.

§ 1250. If the title attempted to be acquired is found to be defective from any cause, the plaintiff may again institute proceedings to acquire the same, as in this title prescribed.

§ 1251. The plaintiff must, within thirty days after final judgment, pay the sum of money assessed. In case the plaintiff is the State of California, or is a public corporation and it appears by affidavit that bonds of said state or public corporation must be issued and sold in order to provide the money necessary to pay the sum assessed, then such sum may be paid at any time within six months from the date of such judgment; provided, further, that if the sale of any such bonds cannot be had by reason of litigation affecting the validity thereof, then the time during which such litigation is pending shall not be considered a part of the six months' time in which such payment must be made. In case the use is for railroad purposes, the plaintiff may, at the time of or before payment, elect to build the fences and cattle guards; and if he so elect, shall execute to the defendant a bond, with sureties to be approved by the court in double the assessed cost of the same, to build

such fences and cattle guards within eighteen months from the time the railroad is built on the land taken, and if such bond be given, need not pay the cost of such fences and cattle guards. In an action on such bond, the plaintiff may recover reasonable attorney's fees. [Amendment approved February 28, 1911.]

64 Cal. 112, 113; 65 Cal. 294; 67 Cal. 63; 104 Cal. 27; 129 Cal. 406, 407, 408; 133 Cal. 7; 134 Cal. 416; 139 Cal. 132, 133.

§ 1252. Payment may be made to the defendants entitled thereto, or the money may be deposited in court for the defendants, and be distributed to those entitled thereto. If the money be not so paid or deposited, the defendants may have execution as in criminal cases, and if the money cannot be made on execution, the court, upon a showing to that effect, must set aside and annul the entire proceedings, and restore possession of the property to the defendant, if possession has been taken by the plaintiff.

64 Cal. 112; 67 Cal. 63; 78 Cal. 81, 82; 129 Cal. 407; 133 Cal. 7; 139 Cal. 133.

Payment, when to be made: Secs. 1251, 1254.

§ 1253. When payments have been made, and the bond given, if the plaintiff elects to give one, as required by the last two sections, the court must make a final order of condemnation, which must describe the property condemned, and the purposes of such condemnation. A copy of the order must be filed in the office of the recorder of the county, and thereupon the property described therein shall vest in the plaintiff for the purposes therein specified.

64 Cal. 112; 67; 62; 78 Cal. 369; 132 Cal. 341; 133 Cal. 7; 134 Cal. 416; 141 Cal. 50; 6 Cal. App. 246.

§ 1254. At any time after trial and judgment entered or pending an appeal from the judgment to the supreme court, whenever the plaintiff shall have paid into court, for the defendant, the full amount of the judgment, and such further sum as may be required by the court as a fund to pay any further damages and costs that may be recovered in said proceeding, as well as all damages that may be sustained by the defendant if for any cause, the property shall not be finally taken for public use, the superior court in which the proceeding was tried may, upon notice of not less than ten days, authorize the plaintiff if already in possession, to continue therein, and if not, then to take possession of and use the property during the pendency of and until the final conclusion of the litigation, and may, if necessary, stay all actions and proceedings against the plaintiff on account thereof. The defendant, who is entitled to the money paid into court for him upon any judgment, shall be entitled to demand and receive the same at any time thereafter upon obtaining an order therefor from the court. It shall be the duty of the court, or a judge thereof, upon application being made by such defendant, to order and direct that the money so paid into court be delivered to him upon his filing a satisfaction of the judgment, or upon filing his receipt therefor, and an abandonment of all defenses to the action or proceeding, except as to the amount of damages that he may be entitled to in the event that a new trial shall be granted. A payment to a defendant, as aforesaid, shall be held to be an abandonment by such defendant of all defenses interposed by him, excepting his claim for greater compensation. In ascertaining the amount to be paid into court, the court shall take care that the same be sufficient and adequate. The payment of the money into court, as hereinbefore provided for, shall not discharge the plaintiff from liability to keep the said fund full and without diminution;

but such money shall be and remain, as to all accidents, defalcations or other contingencies (as between the parties to the proceedings), at the risk of the plaintiff, and shall so remain until the amount of the compensation or damages is finally settled by judicial determination, and until the court awards the money, or such part thereof as shall be determined upon, to the defendant, and until he is authorized or required by rule of court to take it. If, for any reason, the money shall at any time be lost, or otherwise abstracted or withdrawn, through no fault of the defendant, the court shall require the plaintiff to make and keep the sum good at all times until the litigation is finally brought to an end, and until paid over or made payable to the defendant by order of court, as above provided, and until such time or times the County Clerk shall be deemed to be the custodian of the money, and shall be liable to the plaintiff upon his official bond for the same, or any part thereof, in case it be for any reason lost or otherwise abstracted or withdrawn. The court may order the money to be deposited in the State treasury, and in such case it shall be the duty of the State Treasurer to receive all such moneys, duly receipt for, and to safely keep the same in a special fund, to be entered on his books as a condemnation fund for such purpose, and for such duty he shall be liable to the plaintiff upon his official bond. The State Treasurer shall pay out such money so deposited in such manner and at such times as the court, or a judge thereof, may, by order or decree, direct. In all cases where a new trial has been granted upon the application of the defendant, and he has failed upon such trial to obtain greater compensation than was allowed him upon the first trial, the costs of such new trial shall be taxed against him. [Amendment approved March 9, 1903. In effect in sixty days.]

47 Cal. 70, 519, 520, 523; 49 Cal. 241; 53 Cal. 211;

65 Cal. 376; 77 Cal. 29; 78 Cal. 81, 444, 448; 83 Cal. 567; 95 Cal. 221, 223; 103 Cal. 235; 104 Cal. 22, 24; 133 Cal. 532; 137 Cal. 575, 576, 578; 138 Cal. 544; 141 Cal. 48; 151 Cal. 273, 274, 275, 277. L Cal. App. 181.

Interest: Sec. 1249, ante.

§ 1255. Costs may be allowed or not, and if allowed, may be apportioned between the parties on the same or adverse sides, in the discretion of the court.

88 Cal. 67, 68; 98 Cal. 262; 104 Cal. 22, 23; 125 Cal. 106; 133 Cal. 7; 139 Cal. 136.

§ 1255a. Plaintiff may abandon the proceedings at any time after filing the complaint and before the expiration of thirty days after final judgment, by serving on defendant and filing in court a written notice of such abandonment; and failure to comply with section 1251 of this code shall constitute an implied abandonment of the proceeding. Upon such abandonment, express or implied, on motion of defendant, a judgment shall be entered dismissing the proceeding and awarding the defendant his costs and disbursements, which shall include all necessary expenses incurred in preparing for trial and reasonable attorney fees. These costs and disbursements, including expenses and attorney fees, may be claimed in and by a cost bill, to be prepared, served, filed and taxed as in civil actions; provided, that said costs and disbursements shall not include expenses incurred in preparing for trial where the said action is dismissed forty days prior to the time set for the trial of the said action. [New section approved March 17, 1911.]

§ 1256. Except as otherwise provided in this title, the provisions of part two of this code are applicable to and constitute the rules of practice in the proceedings mentioned in this title.

50 Cal. 506; 67 Cal. 62; 74 Cal. 265; 134 Cal. 377; 138 Cal. 582; 10 Cal. App. 381.

§ 1257. The provisions of Part II of this code, relative to new trials and appeals, except in so far as they are inconsistent with the provisions of this title, apply to the proceedings mentioned in this title; provided, that upon the payment of the sum of money assessed, and upon the execution of the bond to build the fences and cattle-guards, as provided in Section 1251, the plaintiff shall be entitled to enter into, improve and hold possession of the property sought to be condemned (if not already in possession), as provided in Section 1254, and devote the same to the public use in question; and no motion for a new trial or appeal shall, after such payment and filing of such bond as aforesaid, in any manner retard the contemplated improvement. Any money which shall have been deposited, as provided in Section 1254, may be applied to the payment of the money assessed, and the remainder, if any there be, shall be returned to the plaintiff. [Amendment approved March 9, 1905. In effect in sixty days.]

59 Cal. 90; 104 Cal. 27; 10 Cal. App. 381.

§ 1258. With relation to the acts passed at the present session of the Legislature, this title must be construed in the same manner as if this code had been passed on the last day of this session, and from and after the time this code takes effect, all the laws of this State in relation to the taking of private property for public uses are abolished, and all proceedings had in the exercise of the powers of eminent domain must conform to the provisions of this title.

§ 1259. Title seven of part three of the Code of Civil Procedure of the State of California (this title) shall be in force and effect from and after the fourth day of April, one thousand eight hundred and seventy-two.

§ 1260. From and after the time this title takes effect, it must be construed in the same manner as

it would be were sections four and seventeen of this Code in force and effect.

§ 1261. No proceeding to enforce the right of eminent domain commenced before this title takes effect is affected by the provisions of this title.

§ 1262. Until the first day of January, one thousand eight hundred and seventy-three, at twelve o'clock noon, the provisions of sections twelve hundred and fifty-six and twelve hundred and fifty-seven of this title are suspended; and until then, except as otherwise provided in this title, the rules of pleading and practice in civil actions now in force in this State are applicable to the proceedings mentioned in this title, and constitute the rules of pleading and practice therein.

10 Cal. App. 381.

§ 1263. Nothing in this Code must be construed to abrogate or repeal any statute providing for the taking of property in any city or town for street purposes.

66 Cal. 506; 79 Cal. 161; 87 Cal. 231; 91 Cal. 247, 248.

§ 1264. In all actions brought under the provisions of this title, to enforce the right of eminent domain, all courts wherein such actions are or may hereafter be pending, shall give such actions preference over all other civil actions therein, in the matter of setting the same for hearing or trial, and in hearing the same, to the end that all such actions shall be quickly heard and determined. [New section approved March 16, 1903. Stats. 1903, p. 165.]

PROVISIONS
OF THE
PENAL CODE.

CRIMES AND MISDEMEANORS.

Injuries to persons, pp. 135-137.

Crimes against public health and safety, pp. 137-140.

Malicious injuries to railroad bridges, highways, etc., pp. 140-145.

INJURIES TO PERSONS.

§ 273h. One convicted of abandoning wife or children may be sentenced to work on roads—payment for work to be made to wife or children.

§ 273h. In all prosecutions under the provisions of either section 270 or section 270a, or section 270b, or section 271, or section 271a of this code where a conviction is had and sentence of imprisonment in the county jail is imposed, the court may direct that the person so convicted shall be compelled to work upon the public roads or highways, or any other public work, in the county where such conviction is had, during the term of such sentence. And it shall be the duty of the board of supervisors of the county where such conviction and sentence are had, and where such work is performed by a person under sentence to the county jail, to allow and order the payment out of any fund available to the wife, or to the guardian, or to the custodian of a child or children, or to an organization, or to an individual appointed by the court as trustee, at the end of each calendar month, for the support of such wife, child or children, a sum not to exceed one and 50-100 dollars for each day's work of such person. [New section approved April 6, 1911.]

(The sections in this section referred to relate to the abandonment and non-support of wife or child.)

OTHER INJURIES TO PERSONS.

§ 367c. Motor vehicles; collision with person or other vehicle; duty of driver.

§ 367d. Motor vehicles; intoxication while operating same, misdemeanor.

§ 367e. Motor vehicles; penalty for neglect of duty through intoxication.

§ 367c. Whenever an automobile, motor cycle, or

other motor vehicle strikes any person, or collides with any vehicle containing a person, the driver of, and all persons in such automobile, motor cycle or other motor vehicle who have or assume authority over such driver, shall immediately cause such automobile, motor cycle or other motor vehicle to stop, and shall forthwith render to the person struck, or to the occupants of such vehicle, all needed assistance, including the carrying of such person or occupant to a physician or surgeon for medical or surgical treatment, if such treatment seems to be required, or if such carrying is requested by the person struck or occupying such vehicle; and such driver and person having or assuming authority over him, shall forthwith give to the occupants of such vehicle or person struck, the number of such automobile, motor cycle or other motor vehicle, with the name and address of the driver and of each person in such automobile, motor cycle or other motor vehicle at the time of such striking or collision. • Any person violating any provision of this section is punishable by imprisonment in the state prison not exceeding five years, or in the county jail not exceeding one year, or by fine not exceeding five thousand dollars, or by both such fine and imprisonment. [New section, approved February 20, 1911.]

§ 367d. Any person operating or driving an automobile, motor cycle or other motor vehicle who becomes or is intoxicated while so engaged in operating or driving such automobile, motor cycle or other motor vehicle shall be guilty of a misdemeanor. [New section approved March 1, 1911.]

§ 367e. Any person operating or driving an automobile, motor cycle or other motor vehicle who becomes or is intoxicated while so engaged in operating or driving such automobile, motor cycle or other motor vehicle, and who by reason of such intoxication does any act, or neglects any duty imposed by law, which act or neglect of duty causes the death of, or bodily injury to, any person, shall be punish-

able by imprisonment in the state's prison not exceeding five years, or in the county jail not exceeding one year, or by fine not exceeding \$500 or by both such fine and imprisonment. [New section approved March 7, 1911.]

CRIMES AGAINST THE PUBLIC HEALTH AND SAFETY.

- § 369a. Operating cars without suitable fenders.
- § 369b. Confining animals in cars without rest.
- § 369d. Leaving open bars or gates inclosing railway track.
- § 369e. Leading or driving animals along railroad tracks.
- § 369f. Employees of railroad, if intoxicated.
- § 369g. Riding, driving, or propelling vehicles along the tracks of railways.
- § 386. Maintaining bridge or ferry without authority.
- § 387. Violating condition of undertaking to keep ferry.
- § 388. Riding or driving faster than a walk on toll-bridges.
- § 389. Crossing toll-bridges, etc., without paying toll.
- § 390. Engineer of locomotive engine omitting to ring bell when crossing highway.
- § 391. Intoxication of engineers, etc.
- § 396. Racing upon highways.

§ 369a. Any person, company, or corporation, operating cars on the streets of cities or towns, or on the county roads within the State, for the conveyance of passengers, propelled by means of wire ropes attached to stationary engines, or by electricity or compressed air, who runs, operates, or uses any car or dummy, unless each car and dummy, while in use, is fitted with a brake capable of bringing such car to a stop within a reasonable distance, and a suitable fender, or appliance, placed in front or attached to the trucks of such dummy or car, for the purpose of removing and clearing obstructions from the track, and preventing any obstacles, obstructions, or person on the track, from getting under such dummy or car, and removing the same out of danger, and out of the way of such dummy or car, is guilty of a misdemeanor. Where

the board of supervisors of any county, or the city council or other governing body of any city, by ordinance, order, or resolution, prescribes the fender or brake to be used as aforesaid, then a compliance with such ordinance, order, or resolution, must be deemed a full compliance with the provisions of this section. [New section approved March 22, 1905. In effect in sixty days.]

§ 369b. Any officer, agent or conductor of any company or person operating any railroad in this State, who in carrying and transporting cattle, sheep or swine in carload lots, confines the same in cars for a longer period than thirty-six consecutive hours, without unloading for rest, water and feeding, for a period of at least ten consecutive hours, is guilty of a misdemeanor. In estimating such time of confinement, the period during which the animals have been confined without such rest on connecting roads from which they are received, must be computed. In case the owner or person in charge of such animals refuses or neglects to pay for the care and feed of animals so rested, the company or person operating such railroad may charge the expense thereof to the owner or consignee and retain a lien upon the animals therefor until the same is paid. [New section approved March 21, 1905. In effect in sixty days.]

§ 369d. Any person who enters upon or crosses any railroad, at any private passway, which is inclosed by bars or gates, and neglects to leave the same securely closed after him, is guilty of a misdemeanor. [New section approved March 22, 1905. In effect in sixty days.]

§ 369e. Any person who leads, drives, or conducts any beast along the track of a railroad, except where the railroad is built within the limits of a public highway, or who places, or having the right to prevent it, suffers any animal to be placed within

the fences thereof for grazing or other purposes, is guilty of a misdemeanor. [New section approved March 22, 1905. In effect in sixty days.]

§ 369f. Any person employed upon any railroad as engineer, conductor, baggage-master, brakeman, switchman, fireman, bridge-tender, flagman, or signal-man, or having charge of the regulation or running of trains upon such railroad, in any manner whatever, who becomes or is intoxicated while engaged in the discharge of his duties, is guilty of a misdemeanor; and if any person so employed as aforesaid, by reason of such intoxication, does any act, or neglects any duty, which act or neglect causes the death of, or bodily injury to, any person or persons, he is guilty of a felony.

§ 369g. Any person who rides, drives or propels any vehicle upon and along the track of any railroad, through or over its private right of way, without the authorization of its superintendent or other officer in charge thereof, is guilty of a misdemeanor. [New section approved March 22, 1905. In effect in sixty days.]

§ 386. Every person who demands or receives compensation for the use of any bridge or ferry, or sets up or keeps any road, bridge, ferry, or constructed ford, for the purpose of receiving any remuneration for the use of the same, without authority of law, is guilty of a misdemeanor.

Public ferries and toll-bridges: Secs. 2843 et seq., Polit. Code.

§ 387. Every person who, having entered into an undertaking to keep and attend a ferry, violates the conditions of such undertaking, is guilty of a misdemeanor.

Undertaking by ferryman: See sec. 2850, Pol. Code.

§ 388. Every person who willfully rides or drives faster than a walk on or over any toll-bridge, lawfully licensed, is punishable by fine not exceeding twenty dollars.

§ 389. Every person not exempt from paying tolls, who crosses on any ferry or toll-bridge, or passes through any toll-gate, lawfully kept, without paying the toll therefor, and with intent to avoid such payment, is punishable by a fine not exceeding twenty dollars.

§ 390. Every person in charge of a locomotive engine, who, before crossing any traveled public way, omits to cause a bell to ring or steam-whistle to sound at the distance of at least eighty rods from the crossing, and up to it, is guilty of a misdemeanor.

§ 391. Every person who is intoxicated while in charge of a locomotive engine, or while acting as conductor or driver upon any railroad train, or car, whether propelled by steam or drawn by horses, or while acting as train dispatcher, or as telegraph operator, receiving or transmitting dispatches in relation to the movement of trains, is guilty of a misdemeanor.

§ 396. Every person driving any conveyance drawn by horses, upon any public road or way, who causes or suffers his horses to run, with intent to pass another conveyance, or to prevent such other from passing his own, is guilty of a misdemeanor.

MALICIOUS INJURIES TO RAILROAD BRIDGES, HIGHWAYS, ETC.

§ 587. Injuries to railroads and railroad bridges.

§ 587a. Tampering with railroads.

§ 587b. Climbing upon railroad.

§ 587c. Evading payment of fare.

§ 588. Injuries to highways, private ways, and bridges.

§ 588a. Placing glass or other substance on public highways, misdemeanor.

- § 589. Injuries to toll-houses and gates.
- § 590. Injuries to milestones and guide-boards.
- § 590a. Informer to receive half fines collected.
- § 590b. Riding and driving over public bridges.
- § 591. Injuring telegraph lines.
- § 592. Taking water from or obstructing canals.
- § 593. Interfering with electric lines.
- § 600. Burning bridges, etc.
- § 607. Destroying or injuring bridges, dams, etc.
- § 611. Obstructing navigable streams.

§ 587. Every person who maliciously, either:

1. Removes, displaces, injures, or destroys any part of any railroad, whether for steam or horse-cars, or any track of any railroad, or any branch or branchway, switch, turnout, bridge, viaduct, culvert, embankment, station-house, or other structure, or fixture, or any part thereof attached to, or connected with any railroad; or,

2. Places any obstruction upon the rails or track of any railroad, or of any switch, branch, branchway, or turnout, connected with any railroad;

Is punishable by imprisonment in the State prison not exceeding five years, or in the county jail not less than six months.

75 Cal. 571.

§ 587a. Every person who, without being thereunto duly authorized by the owner, lessee, or person or corporation engaged in the operation of any railroad, shall manipulate or in any wise tamper or interfere with any air brake or other device, appliance or apparatus in or upon any car or locomotive upon such railroad, and used or provided for use in the operation of such car or locomotive, or of any train upon such railroad, or with any switch, signal or other appliance or apparatus used or provided for use in the operation of such railroad, shall be deemed guilty of a misdemeanor. [New section approved March 22, 1909. In effect immediately.]

[This section, drawn as above, but containing at the end a punishment clause reading: "and upon conviction thereof shall be punished by fine not ex-

ceeding one hundred dollars, or by imprisonment not exceeding three months, or by both such fine and imprisonment," was also approved on March 19, 1909.]

§ 587b. Every person who shall, without being thereunto authorized by the owner, lessee, person or corporation operating any railroad, enter into, climb upon, hold to, or in any manner attach himself to any locomotive engine tender, freight or passenger car upon such railroad, or any portion of any train thereon, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine not exceeding fifty dollars, or by imprisonment not exceeding thirty days, or by both such fine and imprisonment. [New section approved March 20, 1909. In effect immediately.]

§ 587c. Every person who fraudulently evades, or attempts to evade, the payment of his fare, while traveling upon any railroad, shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be punished by a fine of not more than five hundred dollars, or imprisonment not exceeding six months, or by both such fine and imprisonment. [New section approved March 20, 1909. In effect in sixty days.]

§ 588. Every person who maliciously digs up, removes, displaces, breaks, or otherwise injures or destroys any public highway or bridge, or any private way laid out by authority of law, or bridge upon such highway or private way, is punishable by imprisonment in the State prison not exceeding five years, or in the county jail not exceeding one year.

136 Cal. 456, 550; 11 Cal. App. 573.

§ 588a. Any person who throws or deposits any glass bottle, glass, nails, tacks, hoops, wire, cans or any other substance likely to injure any person, animal or vehicle upon any public highway in the State of California shall be guilty of misdemeanor. [New section approved March 1, 1911.]

§ 589. Every person who maliciously injures or destroys any toll-house or turnpike gate, is guilty of a misdemeanor.

§ 590. Every person who maliciously removes, destroys, injures, breaks or defaces any mile post, board or stone, or guide post erected on or near any highway, or any inscription thereon, is guilty of a misdemeanor. [Amendment approved March 22, 1907.]

§ 590a. One-half of all fines imposed and collected under the provisions of section five hundred and ninety shall be paid to the informer who first causes a complaint to be filed charging the defendant with the violation of said section. [New section approved March 22, 1907.]

§ 590b. Every person who rides or drives faster than a walk across any bridge on a public highway, upon which bridge there is displayed a sign or notice stating that it is illegal to ride or drive faster than a walk across the same, is guilty of a misdemeanor. [New section approved March 21, 1911.]

§ 591. Every person who maliciously takes down, removes, injures or obstructs, or makes any unauthorized connection with any line of telegraph or telephone, or any other line used to conduct electricity, or any part thereof, or appurtenances or apparatus connected therewith, or severs any wire thereof, is guilty of a misdemeanor. [Amendment approved March 10, 1909. In effect in sixty days.]

127 Cal. 315, 317.

§ 592. Every person who shall, without authority of the owner or managing agent, and with intent to defraud, take water from any canal, ditch, flume or reservoir used for the purpose of holding or conveying water for manufacturing, agricultural, mining, irrigating, or generation of power, or domestic uses, or who shall without like authority, raise, lower, or otherwise disturb any gate or other apparatus there-

of, used for the control or measurement of water, or who shall empty or place, or cause to be emptied or placed, into any such canal, ditch, flume or reservoir any rubbish, filth or obstruction to the free flow of the water, is guilty of a misdemeanor. [Amendment approved March 20, 1899. In effect immediately.]

§ 593. Every person who unlawfully and maliciously takes down, removes, injures, interferes with, or obstructs any line erected or maintained by proper authority for the purpose of transmitting electricity for light, heat, or power, or any part thereof, or any insulator or cross-arm, appurtenance or apparatus connected therewith, or severs or in any way interferes with any wire, cable, or current thereof, is punishable by imprisonment in the State prison, not exceeding five years, or by fine not exceeding five hundred dollars, or imprisonment in the county jail not exceeding one year. [In effect March 2, 1901.]

148 Cal. 370, 373.

§ 600. Every person who willfully and maliciously burns any bridge exceeding in value fifty dollars, or any structure, snowshed, vessel, or boat, not the subject of arson, or any tent, or any stack of hay or grain or straw of any kind, or any pile of baled hay, or straw, or any pile of potatoes, or beans, or vegetables, or produce, or fruit of any kind, whether sacked, boxed, crated, or not or any growing or standing grain, grass, or tree, or any fence, or any railroad-car, lumber, cord-wood, railroad-ties, telegraph or telephone poles, or shakes, or any tule land or peat ground of the value of twenty-five dollars or over, not the property of such person, is punishable by imprisonment in the State prison for not less than one year, nor more than ten years. [Amendment approved March 21, 1905. In effect in sixty days.]

13 Cal. App. 613, 614, 615.

§ 607. Every person who wilfully and maliciously cuts, breaks, injures or destroys any bridge, dam, canal, flume, aqueduct, levee, embankment, reservoir, or other structure erected to create hydraulic power, or to drain or reclaim any swamp and overflowed tide or marsh land, or to store or conduct water for mining, manufacturing, reclamation, or agricultural purposes, or for the supply of the inhabitants of any city or town, or any embankment necessary to the same, or either of them, or wilfully or maliciously makes or causes to be made, any aperture in such dam, canal, flume, aqueduct, reservoir, embankment, levee, or structure, with intent to injure or destroy the same; or draws up, cuts, or injures any piles fixed in the ground for the purpose of securing any seabank or seawalls, or any dock, quay, or jetty, lock or seawall; or who, between the first day of October and the fifteenth day of April of each year, plows up or loosens the soil in the bed or on the sides of any natural watercourse or channel without removing such soil within twenty-four hours from such watercourse or channel; or who, between the fifteenth day of April and the first day of October of each year, shall plow up or loosen the soil in the bed or on the sides of such natural watercourse or channel, and shall not remove therefrom the soil so plowed up or loosened before the first day of October next thereafter, is guilty of a misdemeanor, and upon conviction, punishable by a fine not less than one hundred dollars and not exceeding one thousand dollars, or by imprisonment in the county jail not exceeding two years, or by both; provided that nothing in this section shall be construed so as to in any manner prohibit any person from digging or removing soil from any such watercourse or channel, for the purpose of mining.

§ 611. Every person who unlawfully obstructs the navigation of any navigable stream, is guilty of a misdemeanor.

**IMPORTANT CALIFORNIA
STATUTES**

RELATING TO

HIGHWAYS, ETC.

An Act granting to roads and highways a right of way over the public lands of this State.

[Approved April 2, 1866. Stats. 1865-6, p. 855.]

Section 1. Whenever any corporation, company, or individual shall, in accordance with the general laws of this State, lay out and construct any road or highway over any unoccupied public lands of this State, or over any lands that the State by donation of Congress, or otherwise, may hereafter acquire, such corporation, company or individual, and their respective assigns, are hereby granted the right of way for such roads or highways over such public lands. This act shall apply to roads heretofore as well as hereafter laid out and constructed.

An Act concerning bridges across navigable streams.

[Approved February 25, 1897; Stats. 1897, p. 21.]

Section 1. The Board of Supervisors of any county in this State now controlling or maintaining, by virtue of any statute, any bridge across any navigable stream, wholly or in part within the boundary lines of any municipal corporation, is hereby authorized and empowered, whenever it may become necessary, in the interest of commerce or by reason of any such bridge being out of repair, to reconstruct and rebuild any part of such bridge, or replace said bridge by a new structure, or with the consent of the governing bodies of such municipalities change the location of such bridge to such place on such stream as may be better suited to its use, or to the use of such navigable stream; and the Board of Supervisors of any county is hereby authorized to abandon any such existing bridge and rebuild a new bridge at such changed location, and the Board of Supervisors of any such county so rebuilding and reconstructing said bridge may enter into an agreement with any

person or corporation, now maintaining any bridge across any such navigable stream, for the building of a joint bridge for the purpose of preventing the impeding of commerce on such navigable streams, and of apportioning the expense between said county and said person or any corporation in such manner as may be agreed upon between said county and said person, or corporation.

Sec. 2. The expense of said reconstruction, or the building of a new bridge, to be payable out of the same fund as is now provided by law for the maintenance and repair of any such bridge; provided, that in case said county should make such agreement with said person or corporation for the building of any joint bridge, that only the county's portion of said joint bridge, as may be settled by said agreement, shall be paid from the said funds; and, provided, that in no event shall the county pay more than one-half the cost of construction, repair, or reconstruction of any such joint bridge.

Sec. 3. All acts or parts of acts in conflict herewith are hereby repealed.

Sec. 4. This act shall take effect from and after its passage.

Note.—See also Act of March 23, 1907, page 222, post.

An Act to authorize cities and towns owning public parks outside of their limits, to lay out, construct, and maintain roads, streets, and boulevards from the boundaries of such cities or towns to, into, and through, such parks, and to acquire lands for that purpose.

[Became a law, under constitutional provision, without Governor's approval, March 1, 1897. Stats. 1897, p. 45.]

Section 1. It shall be lawful for the council, board of trustees, or other governing body of any

city or town, to lay out, open, construct, and cause to be constructed, maintain, and control all roads, streets, and boulevards, which may be necessary or requisite for the purpose of connecting such city or town with any public park situated wholly or partly outside of the limits of such city or town, of which it shall be the owner, and to acquire by gift, purchase, or condemnation, in the manner required by the law of eminent domain, any land or rights of way lying between the limits of such city or town and the exterior limits of such park, for the purposes aforesaid.

Sec. 2. This act shall take effect immediately.

An Act to extend the jurisdiction and authority of cities and towns over parks owned by them situated beyond the limits of such cities and towns, and over streets and avenues leading to the same.

[Became a law, under a constitutional provision, without Governor's approval, March 1, 1897. Stats. 1897, p. 47.]

Section 1. The municipal authority of the several cities and towns in this State, which now own or shall hereafter own any parks situated outside of the limits of such city or town, shall have the same power, authority and jurisdiction over such parks, and over streets and avenues leading therefrom to said parks, and over persons and property therein, as they now or hereafter may have over said cities and towns and over persons and property therein, and the local courts of said cities and towns shall have the same jurisdiction, both civil and criminal, over said parks, streets and avenues, and over persons and property therein, as they may have over the parks, streets, and avenues within such cities or towns respectively.

Sec. 2. This act shall take effect immediately.

An Act to regulate and govern the operation of the rock-crushing plant at the State Prison at Folsom, to provide for the sale of crushed rock, and the disposition of the revenues derived therefrom.

[Approved March 11, 1897; Stats. 1897, p. 99.]

Section 1. The State Board of Prison Directors shall regulate, govern, and have full control of the rock or stone crushing plant established at the State Prison at Folsom, the product thereof, the revenues derived therefrom, and all appropriations of money therefor.

Sec. 2. The plant shall be operated by convict labor, and by the application of the mechanical and water power belonging to the State Prison at Folsom, together with such free labor as the State Board of Prison Directors may deem necessary for superintending, directing, and guarding the convicts employed thereon.

Sec. 3. The State Board of Prison Directors are hereby empowered and authorized to sell and to otherwise dispose of the crushed-rock product of the said plant; provided, that in all cases, preference shall be given to orders received from the Bureau of Highways for crushed rock for road metal for highway purposes.

Sec. 4. The sale price of all crushed rock sold for road metal for highway purposes shall be the cost of production, with ten per centum added, delivered on board cars or other vehicles of transportation at the rock-crushing plant; provided, that no rock shall be sold for highway or other purposes for a less price than thirty cents per ton.

Sec. 5. The cost of production shall be ascertained by estimating the cost of explosives, oil, fuel, tools, repairs, free labor, supplementary machinery, the preparation and maintenance of beds, boxes, crates, or other unloading devices for carriage to and delivery from cars, of said crushed

rock, the leasing of railroad cars, and the cost of such other materials, supplies, and expenses as may be required and used in producing each ton of crushed rock ready for sale delivery.

Sec. 6. The State Board of Prison Directors are hereby authorized to lease railroad cars, with equipments suitable for the rapid and economical handling and delivery of crushed rock, prepared as aforesaid, whenever in their judgment the interest of the people of the State will be conserved thereby, in the matter of highway construction, by the use of said crushed rock. The cost of said leasing shall be carried into the cost of production described in section five.

Sec. 7. The amount of five thousand dollars heretofore appropriated is hereby set apart to and for the usage of the State Board of Prison Directors, to provide and maintain a permanent revolving fund for the purpose of operating and maintaining the rock-crushing plant at Folsom Prison. The money taken from said revolving fund shall be used exclusively for operating and maintaining the said rock-crushing plant. So much of the money received from the sale of crushed rock as shall be necessary to that end, shall be returned to said revolving fund, as it is needed to keep the same constantly at the said figure of five thousand dollars.

Sec. 8. Whenever the revolving fund shall be replenished, and there shall be a surplus, or balance, over the amount appropriated, this surplus, or balance, shall be paid, not less frequently than semi-annual, into the State treasury, to the credit of the fund known as "The State Prison Fund of Folsom Prison," for the use and support of Folsom Prison.

Sec. 9. The clerk of the State Prison at Folsom shall keep such records, books, and accounts as may be necessary to at all times clearly exhibit

the financial, business, and other transactions of the said rock-crushing plant. All such records, books, and accounts shall be kept separate and distinct from those relating to other prison affairs.

Sec. 10. For all sums of money herein required to be paid, drafts shall be drawn on the Controller of State, signed by at least three members of the State Board of Prison Directors. Said drafts shall be sent to the State Board of Examiners, to be by them approved, and after approval by said State Board of Examiners, the Controller of State shall draw his warrant in behalf of said State Board of Prison Directors, on the State Treasurer, who shall pay the same, on presentation of such warrant; provided, that the State Board of Examiners is hereby expressly prohibited from approving of any of said drafts until the same are presented with itemized statements, showing specifically the services rendered, by whom performed, time employed, distance traveled, and necessary expenses thereof; if for articles purchased, the said statement shall give the name of each article, together with the price paid for each, and of whom purchased, together with the date of purchase.

Sec. 11. If any of the buildings, machinery, or structures appertaining to or comprising the said rock-crushing plant are destroyed in any way, or injured by fire or otherwise, they may be rebuilt or repaired immediately, under the direction of the State Board of Prison Directors, by and with the consent solely of the Governor, the Attorney General, and the Secretary of State, and the expenses thereof, not to exceed in amount the sum of ten thousand dollars, shall be paid out of any funds in the State treasury not otherwise appropriated by law, and the provisions of no other act shall apply to or govern or limit this section, or any of the powers or duties herein conferred.

Sec. 12. The State Board of Prison Directors are hereby authorized and empowered to perform such

other acts and duties as may be necessary to carry out the full intent and meaning of this act.

Sec. 13. All acts and parts of acts inconsistent with the provisions of this act are hereby repealed.

Sec. 14. This act shall take effect immediately.

An Act relating to the granting by counties and municipalities of franchises for the construction of paths and roads for the use of bicycles and other horseless vehicles. [Approved March 27, 1897.]

Codified: See section 524, C. C., p. 98, *supra*.

An Act authorizing municipal corporations to lease, purchase, own, and operate gravel-beds and quarries, and to transport gravel and rock therefrom to such municipal corporations, for the purpose of making, improving, and repairing roads.

[Approved March 27, 1897; Stats. 1897, p. 217.]

Section 1. Any incorporated city or town in this State may acquire, lease, purchase and operate any gravel-bed or quarry within the county where such city or town is situated and may equip and operate a plant at such gravel-bed or quarry, or within such town or city, for the purpose of breaking, crushing, or otherwise preparing gravel or rock to be used in making, paving, improving, or repairing its streets. Any such city or town may acquire, lease, or purchase and maintain all necessary roads, rights of way and tramways over which to transport gravel or rock from such gravel-bed or quarry to such city or town, and all necessary appliances for that purpose.

Sec. 2. No money shall be expended or expense incurred for any of the purposes set forth in section one, unless the same is authorized at a regular meeting of the legislative body of such city or town, and by a vote of two-thirds of the members thereof.

Sec. 3. This act shall not extend or enlarge any limitation upon municipal taxation or the expenditure of municipal funds, now existing by reason of State laws or city charters in any of the cities or towns of this State. [Approved March 27, 1897.]

An Act for the establishment of a uniform system of road government and administration in the counties of the State of California.

[Approved April 1, 1897; Stats. 1897, p. 374.]

Note.—Repealed by County Government Act (Davis v. Whidden, 117 Cal. 618.)

An Act to provide for the construction of permanent bridge work on the Lake Tahoe wagon road, a State highway, and making an appropriation therefor. [Approved March 22, 1905; Stats. 1905, p. 796.]

§ 1. There is hereby appropriated out of any money in the State treasury not otherwise appropriated the sum of six thousand (\$6,000) dollars for the purpose of constructing permanent bridge work on the Lake Tahoe wagon road, a State highway. Said sum of six thousand dollars shall become available July 1, 1905.

§ 2. The work provided for in section 1 of this act is placed under the control of the Lake Tahoe wagon road commissioner, provided, however, that the plans and specifications for said bridge work shall be made by the department of highways of California, and that all work in connection with said plans and specifications shall be inspected by the State highway commissioner. Before any payments are made for work done hereunder it shall be the duty of the State highway commissioner to certify to and approve the same.

§ 3. The State Controller is hereby instructed and directed to draw his warrants, in payment for

said work, at such time and in such amounts as the Lake Tahoe wagon road commissioner may present claims for. Said warrants shall be drawn in favor of the said commissioner, and the said treasurer is hereby directed and instructed to pay such warrants, and the Lake Tahoe wagon road commissioner shall disburse the same.

[See act creating Department of Engineering, sections 20 and 25, pages 184-202, post.]

An Act relating to ferries across navigable rivers separating counties, and empowering the boards of supervisors of such counties to establish and maintain ferries across such rivers, and to pay the expense thereof. [Approved March 16, 1903; Stats. 1903, p. 156.]

§ 1. When a navigable river forms a boundary between two counties of this State, the boards of supervisors of such counties are hereby given the power to establish and operate a ferry or ferries across such stream.

§ 2. Each of the said counties shall pay such proportion of the expenses of establishing and operating said ferry or ferries as may be agreed upon by the boards of supervisors of such counties.

§ 3. In case either of said counties shall refuse to enter into an agreement to establish and operate such ferry or ferries, the county situated upon the opposite bank of such river may establish and operate a ferry or ferries across such river, and such county is hereby empowered to acquire landing places for such ferry or ferries on the bank of such river opposite the boundary of such county, and may pay the expense of establishing and operating said ferry or ferries out of the general road fund of such county.

§ 4. This act shall take effect from and after its passage.

An Act appropriating the sum of five thousand dollars for the purpose of procuring guide posts to be erected in the desert sections of California, and particularly in the counties of Kern, Ventura, Los Angeles, Inyo, Riverside, San Bernardino and San Diego. [Approved March 22, 1905; Stats. 1905, p. 805.]

§ 1. The sum of \$5,000.00 is hereby appropriated from any money in the State treasury, not otherwise appropriated, for the purpose of procuring metallic guide posts, upon which are to be indicated the distance and direction from said posts, the location of wells, springs, or tanks of water fit for drinking purposes and other information of value, in the desert sections of California, particularly in the counties of Kern, Ventura, Los Angeles, Inyo, Riverside, San Bernardino, and San Diego; providing, however, that each of said counties (for its own county) shall bear the expense of the proper erection of said guide posts at such points in the county as may be designated by the department of highways, and shall pay all expenses attendant upon the placing of said posts, as well as the expense incurred in placing the directions above mentioned upon said posts.

§ 2. The purchase and distribution of such posts is hereby placed under the management and control of the department of highways of the State of California, and it is made the duty of said department of highways to designate the points at which said posts shall be placed. Said posts shall be at least ten feet in length and shall be made of not less than two inch nor more than three inch iron pipe, to be set in metallic cross pieces of such size and to be sunk in the earth at such depth as will insure proper anchorage. Said posts shall have iron cross arms on which shall be affixed metallic letters stat-

ing the information mentioned in section one of this act.

[See act creating Department of Engineering, sec. 22, p. 179, post.]

§ 3. Any person removing, defacing, or in any manner injuring said guide posts shall be deemed guilty of a felony.

§ 4. The State Controller is hereby directed to draw his warrant in favor of the highway commissioner for the sum of \$5,000.00 and the State Treasurer is hereby directed to pay the same.

An Act providing for the sale of street railroad and other franchises in counties and municipalities, and providing conditions for the granting of such franchises by legislative or other governing bodies, and repealing conflicting acts. [Approved March 22, 1905; Stats. 1905, p. 77. Amended 1909, Stats. 1909, p. 125.]

- § 1. Franchises, how granted.
- § 2. Application for, publication of, advertisement to state what.
- § 3. Publication must state character and term of franchise. Percentage paid when. Forfeited when.
- § 4. When franchise is an extension.
- § 5. Sold to highest bidder. Bid. Deposit. Re-advertised when.
- § 6. When work shall commence. When completed.
- § 7. Bond. When and where filed. Failure to file.
- § 8. Duty of Attorney-General.
- § 9. Certain clauses and conditions forbidden.
- § 10. Violation of provisions of this act.
- § 11. Acts repealed and not repealed.

§ 1. Every franchise or privilege to erect or lay telegraph or telephone wires, to construct or operate street or interurban railroads upon any public street or highway, to lay gas pipes for the purpose of carrying gas for heat and power, to erect poles or wires for transmitting electric heat and power along or upon any public street or high-

way, or to exercise any other privilege whatever hereafter proposed to be granted by boards of supervisors, boards of trustees, or common councils, or other governing or legislative bodies of any county, city and county, city or town within this state, except steam railroads and except telegraph or telephone lines doing an interstate business, and renewals of franchises for piers, chutes or wharves, shall be granted upon the conditions in this act provided, and not otherwise.

§ 2. An applicant for any franchise or privilege above mentioned shall file with the governing or legislative body of the county or municipality an application, and thereupon said governing body shall in its discretion, advertise the fact of said application, together with a statement that it is proposed to grant the same, in one or more newspapers of the county, city and county, city or town wherein the said franchise or privilege is to be exercised. Said advertisement must state that bids will be received for such franchise, and that it will be awarded to the highest bidder, and the same must be published in such newspaper once a day for ten successive days, or as often during said period as said paper is published, if it be a daily newspaper, and if there be no daily newspaper published in such county, city and county, city or town, then it shall be published in a weekly newspaper once a week for four successive weeks, and in either case the full publication must be completed not less than twenty nor more than thirty days before any further action can be taken thereon. [Amendment approved March 3, 1909; Stats. 1909, p. 125.]

§ 3. The publication must state the character of the franchise or privilege proposed to be granted, the term for which it is granted, and, if it be a street railroad, the route to be traversed; that sealed bids therefor will be received up to a certain

hour and day named therein, and that the successful bidder and his assigns must, during the life of said franchise, pay to the county or municipality two per cent (2 per cent) of the gross annual receipts of the person, partnership or corporation to whom the franchise is awarded, arising from its use, operation or possession. No percentage shall be paid for the first five (5) years succeeding the date of the franchise, but thereafter such percentage shall be payable annually; and in the event said payment is not made, said franchise shall be forfeited; provided further, that if the franchise be a renewal of a right already in existence, the payment of said percentage of gross receipts shall begin at once.

§ 4. In case the franchise granted shall be an extension of an existing system of street railroad, then the gross receipts shall be estimated to be one half of the proportion of the total gross receipts of said system which the mileage of such extension bears to the total mileage of the whole system, and said estimate shall be conclusive as to the amount of the gross receipts of said extension:

§ 5. Said advertisement shall also contain a statement that the said franchise will be struck off, sold and awarded to the person, firm or corporation who shall make the highest cash bid therefor; provided, only, that at the time of the opening of said bids any responsible person, firm or corporation present or represented may bid for said franchise or privilege a sum not less than ten per cent. above the highest sealed bid therefor, and said bid so made may be raised not less than ten per cent, by any other responsible bidder, and said bidding may so continue until finally said franchise shall be struck off, sold, and awarded by said governing body to the highest bidder therefor in gold coin of the United States. Each sealed bid shall be accompanied with cash or a certified check, payable to the treasurer of such county or municipality, for the

full amount of said bid, and no sealed bid shall be considered unless said cash or check is enclosed therewith, and the successful bidder shall deposit at least ten per cent. of the amount of his bid with the clerk of such county or municipality before the franchises shall be struck off to him. And if he shall fail to make such deposit immediately, then and in that case, his bid shall not be received, and shall be considered as void, and the said franchise shall then and there be again offered for sale to the bidder who shall make the highest cash bid therefor, subject to the same conditions as to deposit as above mentioned. Said procedure shall be had until said franchise is struck off, sold, and awarded to a bidder who shall make the necessary deposit of at least ten per cent. of the amount of his bid therefor, as herein provided. Said successful bidder shall deposit with the clerk of such county or municipality, within twenty-four hours of the acceptance of his bid, the remaining ninety per cent. of the amount thereof, and in case he or it shall fail to do so, then the said deposit theretofore made, shall be forfeited, and the said award of said franchise shall be void, and the said franchise shall then and there, by said governing body, be again offered for sale to the highest bidder therefor, in the same manner, and under the same restriction as hereinbefore provided, and in case said bidder shall fail to deposit with the clerk of such county or municipality, the remaining ninety per cent. of his bid, within twenty-four hours after its acceptance, the award to him of said franchise shall be set aside, and the deposit theretofore made by him shall be forfeited, and no further proceedings for a sale of said franchise shall be had unless the same shall be readvertised and again offered for sale, in the manner hereinbefore provided.

§ 6. Work to erect or lay telegraph or telephone wires, to construct street railroads, to lay gas pipes

for the purpose of carrying gas for heat and power, to erect poles or wires for transmitting electric heat or power, along or upon any public street or highway, or to exercise any privilege whatever, a franchise for which shall have been granted in accordance with the terms of this act, shall be commenced in good faith within not more than four months from the granting of any such franchise, and if not so commenced within said time said franchise so granted shall be declared forfeited, and shall be completed within not more than three years thereafter, and if not so completed within said time said franchise so granted shall be forfeited; provided, that for good cause shown the governing or legislative body may by resolution extend the time for completion thereof, not exceeding three months.

§ 7. The successful bidder for any franchise or privilege struck off, sold, and awarded under this act shall file a bond running to said county, city and county, or city and town, with, at least, two good and sufficient sureties, to be approved by such governing body, in a penal sum by it to be prescribed, and set forth in the advertisement for bids, conditioned that such bidder shall well and truly observe, fulfill and perform each and every term and condition of such franchise, and that in case of any breach of condition of such bond, the whole amount of the penal sum therein named shall be taken and deemed to be liquidated damages, and shall be recoverable from the principal and sureties upon said bond. Said bond shall be filed with such governing body within five days after such franchise is awarded, and upon the filing and approval of such bond, the said franchise shall, by said governing or legislative body, be granted by ordinance to the person, firm or corporation to whom it has been struck off, sold, or awarded, and in case that said bond shall not be so filed,

the award of such franchise shall be set aside, and any money paid therefor shall be forfeited, and said franchise shall, in the discretion of said governing or legislative body, be readvertised, and again offered for sale in the same manner, and under the same restrictions, as hereinbefore provided.

§ 8. It shall be the duty of the attorney-general, upon the complaint of any county or municipality, or, in his discretion, upon the complaint of any taxpayer, to sue for the forfeiture of any franchise granted under the terms of this act, for the noncompliance with any condition thereof.

§ 9. No clause or condition of any kind shall be inserted in any franchise or grant offered or sold under the terms of this act, which shall directly or indirectly restrict free and open competition in bidding therefor, and no clause or provision shall be inserted in any franchise offered for sale, which shall in any wise favor one person, firm or corporation, as against another, in bidding for the purchase thereof.

§ 10. Any member of any common council or other governing or legislative body of any county, city or county, city or town of this State, who, by his vote, violates or attempts to violate the provisions of this act, or any of them, shall be guilty of a misdemeanor, and may be punished therefor, as provided by law, and may be deprived of his office by the decree of a court of competent jurisdiction, after trial and conviction.

§ 11. All acts or parts of acts in conflict herewith are hereby repealed; provided, however, that nothing herein contained shall be construed as repealing, or amending the following acts, to wit: "An act relating to the granting by the counties and municipalities of franchise for the construction of paths and roads for the use of bicycles and other

horseless vehicles," approved March twenty-seventh, eighteen hundred and ninety-seven: "An act to authorize cities and towns to grant franchises for the construction and maintenance of railroads beyond the limits of such cities or towns leading to public parks owned thereby," being chapter forty of the laws of eighteen hundred and ninety-seven of the State of California. This act shall take effect immediately.

An Act to provide for the care, management and protection of State highways.

[Approved March 24, 1903; Stats. 1903, p. 400.]

- § 1. Removal of encroachments from State highways.
- § 2. Penalty for failure to remove.
- § 3. Action to compel removal.
- § 4. May be removed by Commissioner.
- § 5. Injury by means of ditches. Penalty. Overflow or seepage. Ditches must be bridged at crossings. Dead animals. Waste materials.
- § 6. Injuring guide posts.
- § 7. Fallen trees.
- § 8. Same.
- § 9. Shade trees must not be destroyed.
- § 10. Recovery of penalties.

§ 1. If any State highway duly declared, laid out, or erected, is encroached upon by fences, buildings, or otherwise, the highway commissioner of California may require the removal of the encroachment. Notice must be given to the occupant or owner of the land or person causing or owning said encroachment, or must be left at his place of residence, if such be known to the commissioner, or in case of a non-resident, then left with his agent, if known, otherwise it must be posted on the encroachment. Said notice must specify the breadth of the State highway, the place and extent of the encroachment, and require him to remove the same within five days.

§ 2. If the encroachment is not removed, or commenced to be removed and diligently prosecuted prior to the expiration of the five days from the service or the posting of the notice, the one who caused, owns, or controls the encroachment forfeits ten dollars for each day the same continue unre-moved. If the encroachment is such as to effectually obstruct and prevent the use of the road for vehicles, the State highway commissioner must forthwith remove the same.

§ 3. If the encroachment is denied, and the owner, occupant, or person controlling the matter or thing charged as being an encroachment refuses to remove or permit the removal thereof, the State highway commissioner must commence in the proper court an action to abate the same as a nuisance. If he recovers judgment, he may, in addition to having the same abated, recover ten dollars for every day such nuisance remained after such notice, and also his costs in said action.

§ 4. If the encroachment is not denied, but is not removed for five days after the notice given as hereinbefore provided, the State highway commissioner may remove the same at the expense of the owner, occupant, or person controlling the same, and recover his costs and expenses, and also ten dollars for each day the same remains after said five days' notice, in an action for that purpose.

§ 5. Whoever obstructs or injures any State highway, or diverts any watercourse thereon, or drains water from his land on any highway, to the injury thereof, by means of ditches or dams, is liable to a penalty of ten dollars for each day such obstruction or injury remains, and must be punished as provided in section five hundred and eighty-eight of the Penal Code. Any person, persons, or corporations, who shall, by storing or distributing water for any purpose, permit the water to over-

flow, or saturate by seepage, any State highway, to the injury thereof, shall, upon notification of the State highway commissioner, discontinue and repair the damage occasioned by such overflow or seepage; and should such repair not forthwith be made by such person, persons, or corporations, said State highway commissioner shall make such repairs and if necessary divert the flow or seepage, and recover the expense thereof from such person, persons, or corporation, in an action by law. All persons excavating irrigation, mining, or draining ditches across the State highways shall be required to bridge such ditches under the direction of the commissioner, at such crossings, and upon neglect to do so, the State highway commissioner shall construct the same and recover the cost of constructing said bridge or bridges of such person by action, as provided in this section; and whoever willfully injures any bridge on a State highway is hereby declared to be guilty of a misdemeanor, and is also liable for actual damages for such injury, to be recovered by the State in a civil action; provided, further, that every person who knowingly allows the carcass of any dead animal (which animal belongs to him at the time of its death) to be put or remain within one hundred feet of any State highway, and every person who puts the carcass of any dead animal within one hundred feet of any State highway, or who shall deposit on any State highway any refuse, or waste tin, sheet iron, broken glass, or other refuse matter, is guilty of a misdemeanor.

§ 6. Whoever removes or injures any mile-stone, mile-board, or guide-post, or any inscription thereon, erected on any State highway, is liable to a penalty of ten dollars for every such offense, and punishable as provided in section five hundred and ninety of the Penal Code.

§ 7. Any person may notify the occupant or own-

er of any land from which a tree or other obstruction has fallen upon any State highway to remove such tree or obstruction forthwith. If it is not so removed, the owner or the occupant is liable to a penalty of one dollar for every day thereafter until it is removed, and the cost of removal at the suit of the commissioner.

§ 8. Whoever cuts down a tree so that it falls into any State highway must forthwith remove the same, and is liable to a penalty of ten dollars for every day the same remains in such highway.

§ 9. Whoever digs up, cuts down, or otherwise maliciously injures or destroys any shade or ornamental trees on any State highway, unless the same is deemed an obstruction by the State highway commissioner, and removed under his direction, forfeits one hundred dollars for each such tree.

§ 10. All penalties or forfeitures and other recoveries given in this act and not otherwise provided for, must be recovered by the State highway commissioner by suit in the name of the State, and paid into the State treasury, and thereafter be used for the purpose of costs or expenses in future proceedings under this act or for State road purposes.

§ 11. All acts, or parts of acts, in conflict with the provisions of this act, are hereby repealed.

§ 12. This act shall take effect and be in force from and after its passage.

An Act to provide for the formation and establishment of boulevard districts; the construction, acquisition, maintenance, control and use of boulevards; defining the term boulevard; providing for the voting, issuing and selling of bonds, and the levying of taxes to pay for the acquisition, construction, maintenance and repair of such boule-

ward; providing for a boulevard commission to have charge of the affairs of boulevard districts, and the construction, maintenance and repair of boulevards within such districts; providing for the election of such commission, their terms of office, and of elections to be held in such districts; and repealing an act entitled "An Act to provide for the formation of boulevard districts, and the construction, maintenance, and use of boulevards, and defining the term boulevard," approved March 22, 1905, and the act amendatory thereof approved April 15, 1909.

[Approved May 1, 1911. Stats. 1911, Chap. 737.]

- § 1. Boulevard districts, formation of.
- § 2. Petition for.
- § 3. Notice of hearing petition.
- § 4. Hearing.
- § 5. Boundaries of district.
- § 6. Notice of election to determine if district shall be formed.
- § 7. Conduct of election. Ballots.
- § 8. Election of members for boulevard board and boulevard commission.
- § 9. Powers of boulevard district.
- § 10. Boulevard commission constitute officers of district.
- § 11. Boulevard commission, meetings and powers.
- § 12. Moneys of district, how expended. Boulevard defined.
- § 13. Boulevard commission may call bond issue election.
- § 14. Conduct of such election. Ballots. Contract for constructing boulevard, how made.
- § 15. Terms of bonds issued for construction of boulevard.
- § 16. Commissioners must furnish supervisors estimate of moneys needed for district.
- § 17. Supervisors must levy boulevard district tax.
- § 18. Treasury of county repository of district funds.
- § 19. Apportionment of district funds by treasurer.
- § 20. Amount to be raised by issuance of bonds, etc.
- § 21. County surveyor shall prepare map when directed by commission.
- § 22. Bond to be filed with petition for organization of district.
- § 23. Proceedings on dissolution of district.
- § 24. Repeal of former act.

§ 1. Any portion of a county not contained in a boulevard district under the provisions of this act, may be formed into a boulevard district, and when so formed shall be known and designated by the

name and style of boulevard district (using the name of the district) of county (using the name of the county in which said district is located), and shall have the rights herein enumerated and such as may hereafter be conferred by law.

§ 2. A petition for the formation of such boulevard district (naming it) may be presented to the board of supervisors of the county wherein the district is proposed to be formed, which petition shall be signed by not less than twenty-five freeholders, resident within the proposed district, and shall contain:

(1) The boundaries of the proposed district, and the number of inhabitants residing therein;

(2) The number of acres contained therein and the assessed value thereof and of the improvements thereon;

(3) A particular description of the boulevard which it is desired to lay out, open and construct;

(4) A request that an election be called within said district for the purpose of determining the question of the formation of said boulevard district and the building of the boulevard described in said petition.

§ 3. Such petition must be presented at a regular meeting of said board of supervisors and they shall thereupon fix a time for hearing said petition, not less than twenty, nor more than sixty days after the date of presentation thereof, and shall publish a notice of the fact that such petition has been filed (referring to the same on file with the clerk of the board of supervisors for further particulars) and giving the date and hour at which said petition will be heard, which said notice shall be published at least once a week for two consecutive weeks in some newspaper published and circulated in said proposed district; provided, that if no newspaper be so published in said district, then said notice shall be so published in some newspaper published and circu-

lated at the county seat in which said proposed district is located.

§ 4. Upon the day named for the hearing of said petition, the board of supervisors shall hear the same and may adjourn such hearing from time to time, not more than thirty days in all.

On the final hearing the said board shall define and establish the boundaries of said boulevard district as provided in said petition, unless they shall deem it proper to change them, provided that any change made by said board of supervisors shall not include any territory outside of the boundaries described in the petition, until the board has given at least two weeks notice of its intention to include such territory within such district, by publication for two weeks of such notice of intention in a newspaper of general circulation published either in said district or at the county seat. The territory of such district shall not be changed or reduced to such an extent as to prevent the creation and establishment of such boulevard district.

§ 5. The boundaries established by the board of supervisors shall be the boundaries of such boulevard district until the same shall be changed in the manner provided by law. But, if it shall appear to the board that the boundaries of any such district have been incorrectly described in the petition it shall direct the county surveyor to ascertain and report the correct description of the boundaries, in conformity with the orders of said board of supervisors, which said report must be filed within ten days from the day of making such order. At the first regular meeting after the filing of said report, the board of supervisors shall ratify the same, by resolution entered in its minutes, with such modifications as they deem necessary, and the boundaries so established shall be the legal boundaries of such boulevard district.

§ 6. The board of supervisors thereupon and not later than thirty days after the establishment of

said boundaries, as hereinbefore provided, shall give notice of an election to be held in such proposed boulevard district for the purpose of determining whether such district shall be formed. The order must fix the day of such election, which must be within sixty days from the date of the order, and must show the boundaries of the proposed district, and must state that at such election three persons who are to compose the boulevard commission will be voted for. This order shall be entered in the minutes of the board, and shall be conclusive evidence of the due presentation of a proper petition, and of the fact that each of the petitioners was at the time of the signing and presentation of such petition, a resident and freeholder of the proposed district; a copy of such order shall be posted for four successive weeks prior to the election, in three public places within the proposed district, and shall be published for four successive weeks prior to the election in some newspaper published in the proposed district, if there be one, and if not, in some newspaper published at the county seat. It shall be sufficient if the order be published once a week.

§ 7. The board of supervisors, at least fifteen days prior to the election, shall select one, and may select two, polling places within the proposed district, and make all suitable arrangements for the holding of such election. They must appoint one inspector and two judges of election in each polling place, who shall constitute the officers of said election; if none are so appointed or if those appointed are not present at the time of the opening of the polls, the electors present may appoint them and they shall conduct the election. The ballot shall contain the words "For a Boulevard District" or "Against a Boulevard District" as the case may be, and also the names of the persons to be voted for at said election. At such election there shall be elected three persons for members of the boulevard commission. Such election, and all subsequent elections in said district, shall be conducted as nearly

as practicable in accordance with the general election laws of the state, except that the provisions of said laws as to the form of ballots and the making of nominations shall not apply. Every qualified elector, resident within the proposed district for the period requisite to enable him to vote at a general election shall be entitled to vote at the election above provided for. The officers of the election must certify the result of the election to the board of supervisors and if a majority of the votes cast at such election shall be in favor of a boulevard district the board of supervisors shall make and cause to be entered in the minutes of said board an order that a boulevard district of the name and with the boundaries stated in the petition (setting forth such boundaries) has been duly established and shall declare the persons receiving respectively the highest number of votes for members of the boulevard commission, duly elected as such commissioners; and said order shall be conclusive evidence of the fact and regularity of all prior proceedings of every kind and nature provided for by this act or by law, and of the existence and validity of the boulevard district. If a majority of the votes cast shall be against a boulevard district, the board shall by order entered in its minutes so declare, and no other proceeding shall be taken in relation thereto until the expiration of six months from the date of the presentation of the petition to said board.

§ 8. There shall be an election for two members of the boulevard board in every even-numbered year, beginning with the first even numbered year after the election at which the said district was organized, and the two members then to be elected shall hold office until the election and qualification of their successors in the next even-numbered year; and there shall be an election for one member of the boulevard commission in every odd-numbered year beginning with the first odd-numbered year after the election at which the district was organized, and the member then to be elected shall hold

office until the election and qualification of his successor in the next odd-numbered year. The three members elected at the election at which the district was organized shall, at their first meeting, or as soon thereafter as may be practicable, so classify themselves, by lot, that two of them shall go out of office in the first even-numbered year after the election at which the district was organized, and upon the election and qualification of their successors, as provided by this act. The members of the boulevard commission shall receive no compensation whatever, either for general or for special services. All elections for officers after the formation of the district shall be held on the first Monday after the first Tuesday in the month of March. Not less than twenty days after the day of such election the boulevard commission must give notice of said election by posting notice thereof in three public places in the boulevard district, which notice must specify the time and place of elections, the hours during which the polls will be kept open, and the officers to be elected. They shall select one, and may select two, polling places within the district; shall appoint one inspector and two judges of election in each polling place, and make all necessary and proper arrangements for holding the election. Said election officers shall constitute the election board. If no election officers are so appointed, or if those appointed are not present at the time of the opening of the polls, the electors present may appoint them and they shall conduct the election. Such election shall be conducted as nearly as practicable in accordance with the general election laws of the state, except that the requirements of said laws as to the form of ballots and the making of nominations of candidates, shall not apply. Every qualified elector resident within the district for the period requisite to enable him to vote at a general election, shall be entitled to vote at the election. At such election the last great register of the county shall be used, and any elector whose name is not upon such great register shall be

entitled to vote upon producing and filing with the board of election a certificate, under the hand and seal of the county clerk, showing that his name is registered and uncanceled upon the great register of such county, provided that he is otherwise entitled to vote.

The officers of the election must publicly canvass the votes immediately after the closing of the polls, and must certify the result within twenty-four hours after the closing of the polls to the boulevard commission. Said commission shall within five days after the day of election canvass said returns, and shall make, sign and deliver certificates of election to the person or persons elected.

§ 9. Every boulevard district formed under the provisions of this act shall have power to have and use a common seal, alterable at the pleasure of the boulevard commission; to sue and be sued by its name; to lay out, establish, construct, acquire and maintain one or more boulevards within the district, and for this purpose to acquire by purchase, gift, devise, condemnation proceedings or otherwise real and personal property and rights of way within the district, and to pay for and hold the same; to make and accept any and all contracts, deeds, releases and documents of any kind which shall be necessary or proper to the exercise of any of the powers of the district, and to direct the payment of all lawful claims and demands against it; to issue bonds as hereinafter provided, and to provide for the payment of the same and the interest thereon; and to cause to be levied taxes sufficient when directed by a vote of the people of the district for the construction, maintenance or repair of said boulevard, and the running expenses of the district; to employ all necessary engineers, surveyors, agents and workmen to do the work on said boulevard and in said district; and generally to do and perform any and all acts necessary or proper to the complete exercise and effect of any of its powers or the purposes for which it was formed.

§ 10. The officers of the district shall be three members of the boulevard commission, and their term of office shall be for two years. No person shall be eligible to act as a commissioner who has not been a bona fide resident and freeholder of the district for at least one year prior to his election or appointment. Any vacancy in the commission shall be filled by appointment for the unexpired term by the board of supervisors of the county in which said district is located, but no member of the board of supervisors shall be eligible to membership on said commission, or to hold any position in connection therewith. Each commissioner shall give a bond to the boulevard district for the faithful performance of his duties in the sum of five thousand dollars, to be approved by the judge of the superior court.

§ 11. The boulevard commission shall be the governing body of the district, and shall exercise all the powers thereof. At its first meeting, or as soon thereafter as may be practicable, the commission shall choose one of its members as president, and another of its members as secretary. All contracts, deeds, warrants, releases, receipts and documents of every kind shall be signed in the name of the district by its president, and shall be countersigned by its secretary. The commission may hold such meetings, either in the day or in the evening, as may be convenient. In case of the absence or inability to act of the president or secretary, the board shall, by order entered upon its minutes, choose a president pro tem. or secretary pro tem., as the case may be.

§ 12. Any boulevard constructed under this act may be constructed over, along or upon any county road or public highway, or any part thereof, and the moneys belonging to such boulevard district may be expended in the improvement of such road or highway to conform to the width and general character of the balance of the boulevard.

By the term "boulevard" as used herein is meant a highway of limited dedication and use, not less than thirty, and not more than one hundred feet in width, and upon, along, and over which no franchise for telephone, telegraph or electric wires or poles, or for the operation or running of cars or vehicles upon fixed tracks or rails thereon, shall be granted; and any easements granted or condemned for the building of said boulevard shall be so granted or condemned, provided, that nothing herein shall be deemed to apply to or as preventing the granting of such franchise or limiting the use of wagons across said boulevard, on, over and along intersecting streets and highways.

§ 13. At any time after the district is organized, the boulevard commission may, by order entered in the minutes of the meetings of the commission, call an election for the purpose of determining whether bonds shall be issued for the construction of such boulevard. Such order shall fix the day of the election and shall specify the amount of money to be raised, and shall state in general terms the purpose for which it is to be raised. A copy of such order shall be posted for four successive weeks prior to the election in at least three public places within the district, and shall be published for four successive weeks prior to the election in some newspaper published within the district, if there be one, and if not, in some newspaper published at the county seat. It shall be sufficient if the order be published once a week.

§ 14. At any time prior to the day fixed for the election the commission shall select one, and may select two, polling places within the district, and appoint one inspector, one judge and one clerk for each precinct to conduct the same, and shall make all necessary and proper arrangements for holding the election. The ballots shall contain the words "For the issuance of bonds," or "Against the is-

suance of bonds.''' The election shall be conducted in accordance with the general election laws of the state, so far as the same may be applicable, except as herein otherwise provided. Every qualified elector resident within the district for the length of time necessary to enable him to vote at a general election shall be entitled to vote at the election. After the votes shall have been counted and the result announced by the election officers the ballots shall be sealed up and delivered to the secretary or president of the boulevard commission, and said commission shall within two days thereafter proceed to canvass the same and shall enter the result upon its minutes. Such entry shall be conclusive evidence of the fact and regularity of all prior proceedings of every kind and nature provided by this act or by law, and of the facts stated in such entry. If, at such election, two-thirds of the votes cast be in favor of the issuance of bonds, the said commission shall have full power and authority to issue and dispose of said bonds as proposed in the order calling the election and as hereinafter provided.

The boulevard commission shall advertise for bids for constructing such boulevard, or for doing any repair or maintenance work thereon in accordance with plans, profiles, and specifications to be prepared by said commission, by publishing a notice thereof for three successive weeks in a weekly newspaper published within the boulevard district, if such newspaper is published therein; otherwise in a newspaper published at the county seat. Every contract for doing any part of said work shall be let, after advertisement as herein provided, to the lowest responsible bidder, who shall give a bond to the boulevard district for the faithful performance of his contract, with sureties satisfactory to said commission in an amount equal to at least fifty per cent of the amount of the contract price, which shall be stated in said advertisement, provided, however, that the commission may make contracts, without advertisement, for any work on said boule-

ward the cost of which does not exceed one thousand dollars; and provided, further, that the commission may reject any or all bids and may thereupon readvertise for bids for doing any part or the whole of said work; or may do said work without letting any contract therefor when the amount of the work is less than one thousand dollars. Said commission may hire all necessary engineers, inspectors and superintendents to supervise the performance of contracts entered into by said commission, or to have charge of the doing of all work done without contract.

§ 15. All bonds issued under the provisions of this act shall be of such denomination as the boulevard commission may determine, except that no bonds shall be of less denomination than one hundred dollars nor of a greater denomination than one thousand dollars. Said bonds shall be payable in gold coin of the United States at the office of the county treasurer of the county wherein said district is situated, and shall bear interest at a rate not exceeding seven per centum per annum; which interest shall be payable semi-annually in like gold coin. Not less than one-twentieth part of the total issue of bonds shall be payable each year, on a day to be fixed by the commission and specified in the bonds. Each bond shall be signed by the president and countersigned by the secretary of the boulevard commission, and said bonds shall be numbered consecutively, beginning with number one, and shall have coupons attached referring to the number of the bond to which they are attached, which coupon shall be signed by the president and countersigned by the secretary of said commission. The bonds must be sold or disposed of by the boulevard commission in such manner and in such quantities as may be determined by said commission in its discretion, but no bond must be sold for less than its face value. The proceeds of such sale shall be deposited with the county treasurer and shall be by him placed in the fund to be called the boulevard

construction and maintenance fund of.....
boulevard district (naming it); the money in such fund shall be used for the purpose indicated in the order calling the election upon the question of the issuance of bonds; provided that any money remaining in said fund on completion of the work contracted for, shall be expended in the betterment and maintenance of said boulevard. If the result of the election be against the issuance of bonds no other election upon the question shall be called or held for six months.

§ 16. The commissioners must on or before the first meeting of the board of supervisors in September of each year, furnish the supervisors and the auditor of the county wherein the district is situated, an estimate in writing of the amount of money needed for the purpose of the district for the ensuing fiscal year. The amount must be sufficient to pay off the annual interest accruing upon said bonds, as it falls due, and also to pay one-twentieth part of the principal of said bonds; to pay the estimated cost of repairs and maintenance of the boulevard and the running expenses of the district.

§ 17. The board of supervisors of any county wherein is situated a boulevard district, must annually at the time of levying county taxes levy a tax to be known as the "..... (name of district) boulevard district tax," sufficient to raise the amount reported to them as herein provided, by the boulevard commission. The supervisors must determine the rate of such tax by deducting fifteen per cent for anticipated delinquencies from the total assessed value of the real property of the district within the county, as it appears on the assessment roll of the county, and dividing the sum reported by the boulevard commission as required to be raised by the remainder of such total assessed value. The tax so levied shall be computed and entered on the assessment roll by the county audi-

tor, and if the supervisors fail to levy the tax as provided in the preceding section, then the auditor must do so. Such tax shall be collected at the same time and in the same manner as state and county taxes, and when collected shall be paid into the county treasury for the use of said district, and the purposes herein specified. The provisions of the Political Code of this state prescribing the manner of levying and collecting taxes and the duties of the several county officers with respect thereto are, so far as they are applicable and not in conflict with the specific provisions of this act, hereby adopted and made a part hereof. Such officers shall be liable upon their several official bonds for the faithful discharge of the duties imposed upon them by this act.

§ 18. The treasury of the county wherein the district is situated shall be the repository of all the funds of the district. The treasurer of the county shall receive and receipt for the same, and shall place the same to the credit of the district. He shall be responsible upon his official bond for their safe keeping and disbursement in the manner herein provided.

§ 19. The following funds are hereby established to which the money belonging to the district shall be apportioned by the treasurer, to wit: Bond fund; construction and maintenance fund, and district expense fund. The treasurer shall pay out the same only upon warrants of the boulevard commission, signed by the president and attested by the secretary. The treasurer shall report in writing to the commissioners whenever requested by them or the secretary the amount of money in the various funds, the amounts of receipts since his last report and the amounts paid out.

§ 20. The amount to be raised by the issuance of bonds on the taxable property within said district, shall in the aggregate not exceed seventy-five per cent of the estimated cost of acquiring the right of

way therefor and the constructing said boulevard, as given in the estimates to be furnished by the county surveyor; the balance of twenty-five per cent shall be paid out of the general road fund of the county. Seventy-five per cent of the cost of maintenance and repair of said boulevard shall be paid by the boulevard district and twenty-five per cent of the cost of such maintenance and repair thereof shall be paid out of the general road fund of the county.

§ 21. When directed by the boulevard commission of said district, and before the calling of any election for the issuance of bonds, the county surveyor shall prepare a map showing the location of said proposed boulevard; also showing a cross-section and profile of said proposed boulevard, together with specifications for the construction thereof, and an estimate of the cost of acquiring the right of way therefor, and of the construction of said boulevard.

§ 22. There shall be filed, with said board of supervisors at the time of the filing of the petition for the organization of said boulevard district with said board, a bond in the sum of not more than three hundred dollars, with two sufficient sureties, to be approved by said board, who shall each qualify in double the amount of said bond, conditioned that they will pay the expense and cost of said election in an amount not exceeding the amount mentioned in said bond, in case the proposition to organize said district shall be defeated at said election.

§ 23. The district may at any time be dissolved upon the vote of two-thirds of the qualified electors thereof at an election called by the boulevard commission upon the question of dissolution. Upon a petition signed by a majority of the electors of said district, asking for the dissolution of said district, the boulevard commission shall within thirty days after receiving said petition, by resolution, order that an election be held in the said district for the

determination of the question, and appoint three qualified electors thereof to conduct said election. Such election shall be called and conducted in the same manner as other elections of the district. Upon such dissolution, any property which may have been acquired by such boulevard district shall vest in any incorporated town or city where said boulevard district shall be wholly within or be identical with the corporate limits of such incorporated town or city; and the property in the territory of said district outside of the limits of such incorporated town or city shall vest in the county board of supervisors; and if there be no such incorporated town or city, then such property shall vest in the board of supervisors of the county wherein such boulevard district is situated until the formation of such incorporated town or city; provided, however, that if at the time of the election to dissolve such district there be any outstanding bonded indebtedness of such district, then, in such event, the vote to dissolve such district shall dissolve the same for all purposes excepting only the levy and collection of taxes for the payment of such outstanding indebtedness of such district; and from the time such district is thus dissolved until such bonded indebtedness with the interest thereon is fully paid, satisfied and discharged, the legislative authority of such incorporated town or city, or the board of supervisors, if there be no such incorporated town or city, is hereby constituted ex officio the boulevard commission of such district. And it is hereby made obligatory upon such board to levy such taxes and perform such other acts as may be necessary in order to raise money for the payment of such indebtedness, and the interest thereon, as herein provided.

§ 24. That certain act entitled "An act to provide for the formation of boulevard districts, and the construction, maintenance, and use of boulevards, and defining the term boulevard," approved March 22, 1905, and the act amendatory

thereof, approved April 15, 1909, are hereby repealed.

An Act to create for the State of California a department of engineering, to provide for the appointment of the officers and employees thereof, defining its powers and prescribing the duties of said department, its officers and employees, to provide the compensation of such officers and employees, to make an appropriation for the salaries and other expenses for the remainder of the fifty-eighth fiscal year and making certain acts a felony and repealing an act entitled "An act creating a commissioner of public works, defining his duties and powers and fixing his compensation," approved February ninth, nineteen hundred, and all acts or parts of acts amendatory thereof; also repealing an act entitled "An act to create a department of highways for the State of California, to define its duties and powers, to provide for the appointment of officers and employees thereof and to provide for the compensation of said officers and employees, and for the additional expenses of said department, and to make an appropriation therefor for the remainder of the forty-eighth fiscal year," approved April first, eighteen hundred and ninety-seven; also repealing an act entitled "An act providing for the appointment of an auditing board to the commissioner of public works, authorizing and directing him and them to perform certain duties relating to drainage, to purchase machinery, tools, dredges and appliances therefor, to improve and rectify water channels, to erect works necessary and incident to said drainage, to condemn land and property for the purposes aforesaid, making certain acts a felony, and making an appropriation of money for the

purposes of this act," approved March seven-teenth, eighteen hundred and ninety-seven, and all acts or parts of acts amendatory thereof; also repealing an act entitled "An Act to provide for the appointment, duties and compensation of a debris commissioner, and to make an appropriation to be expended under his direction in the discharge of his duties as such commissioner," approved March twenty-fourth, eighteen hundred and ninety-three, and all acts or parts of acts amendatory thereof; also repealing an act entitled "An act to create the office of Lake Tahoe wagon road commissioner, providing the term of office and compensation of such commissioner, defining his duties, and making an appropriation for the salary and expenditures provided for and authorized by this act," approved April first, eighteen hundred and ninety-seven, and all acts or parts of acts amendatory thereof.

[Approved March 11, 1907; Stats. 1907, p. 215. Amended 1909, Stats. 1909, p. 558. Amended 1911, Stats. 1911, chap. 409.]

- § 1. Department of Engineering created.
- §1½. Consulting Board of Irrigation, etc.
- § 2. State Engineer. Duties.
- § 3. Term of office.
- § 4. Bond of Engineer.
- § 5. Office of department. Salaries.
- § 6. Assistants. Salaries. Eligibility.
- § 6a. Advisory board may appoint highway engineer and other assistants.
- § 7. Meetings of Advisory Board. Plans for public works. Exempt from law of contracts.
- § 8. Supersedes Board of Public Works. River and harbor improvements.
- § 9. Control of State highways.
- §10. Examine highway conditions. Analyze road materials. Forms of books. Forms for surveying.
- §11. Architectural work of State.
- §12. One assistant engineer to be assigned to San Francisco harbor. Register of work. Draughtsman.

- § 13. Co-operative work with U. S. Government.
Transfer of funds.
- § 14. Impounding of debris from mines. To advise
with Debris Commission. Inspection of work.
Payment of claims.
- § 15. Employment of assistants. Reports of inspectors.
- § 16. Biennial report of Engineer. Duty of State
Printer.
- § 17. Salaries, how paid. Bonds. Oath of office.
Travelling expenses.
- § 18. Auditing of bills. Attorney-General is legal
adviser.
- § 19. Appropriation for salaries.
- § 20. Certain Commissioners to transfer all property.
- § 21. Repeal of act creating Commissioner of Public
Works.
- § 22. Repeal of act creating Department of High-
ways.
- § 23. Repeal of act creating Auditing Board.
- § 24. Repeal of act creating Debris Commissioner.
- § 25. Repeal of act creating Lake Tahoe Wagon Road
Commissioner.

§ 1. A department of and for the State of California to be known as the department of engineering is hereby created to consist of an advisory board composed of the governor as ex officio member and chairman of said board, and a state engineer who shall be the chief executive officer of the department, the general superintendent of state hospitals, the chairman of the state board of harbor commissioners of San Francisco, and three other members to be appointed by the governor, which said three appointive members shall hereafter in this act be designated as the appointed members of said advisory board. The said department, its officers and employees shall have and exercise the powers and duties hereinafter set forth and specified, and such as are or may be hereafter provided by law. [Amendment approved April 8, 1911.]

§ 1½. Upon this act becoming effective the governor shall appoint five persons who shall be known as a consulting board to the department of state engineering upon all matters that affect irrigation, drainage and river improvement. Such board shall meet at such times as the work requires and shall

meet at least once in two months. They may report to the advisory board on all matters relating to irrigation, drainage and river improvement together with their conclusions thereon, and may render a report to the advisory board upon all plans for river improvements. [Amendment, approved April 8, 1911.]

§ 2. Upon this act becoming effective the governor shall appoint a competent civil engineer as the head of the department of engineering, and such person shall be known as the state engineer. The state engineer shall devote his entire time to the services of the state and shall not actively engage in any other pursuit while serving as such state official. He shall have charge of all the engineering and structural work of the department and may receive by and through the approval of the advisory board such special assistance of a technical character beyond the employees hereinafter specified as they shall allow for the proper conduct of the business of the department. [Amendment approved April 8, 1911.]

§ 3. The state engineer, and the appointed members of said advisory board, shall hold office at the will and pleasure of the governor. Immediately after qualifying, the advisory board shall meet and organize and shall adopt a seal for the authentication of its acts and records. [Amendment approved April 8, 1911.]

§ 4. Within twenty days after receiving notice of appointment the person appointed as state engineer shall file a bond in the sum of twenty thousand dollars (\$20,000) with at least two sufficient sureties thereon or with a surety company of recognized standing for the faithful performance of his duties, which bond must be approved by the governor and filed with the secretary of state, and he shall qualify by taking the oath of office as prescribed for other state officers.

§ 5. The office of the department of engineering shall be in the state capitol; and the secretary of state shall assign to the department, for its use, such rooms as may be necessary for its accommodation. All of the regular meetings of the advisory board shall be held at such office. The said board may, however, hold such special meetings at such places as the duties of the department, or the best interests of the state may require. The state board of harbor commissioners for the port of San Francisco shall assign proper rooms in the ferry building at San Francisco for the use of one assistant state engineer and his necessary office help.

§ 6. The department of engineering by and through the state engineer shall have the power to appoint two assistant engineers, one state architect, one architectural designer, three architectural draughtsmen, two engineers' draughtsmen, one testing engineer, one mechanical engineer, two filing clerks, one blue-print pressman, a secretary, two clerks and stenographers and one porter and messenger, and such additional technical assistance and help as the advisory board may, in their judgment, deem necessary, and to fix their salaries and compensation, who shall hold office at the pleasure of the appointive power, and who must be confirmed by the advisory board before proceeding with their duties. Such officers and employees shall not be eligible for appointment unless they possess special qualifications for and are competent to perform the duties devolving upon them, and they shall devote their entire time to the service of the department. [Amendment approved March 20, 1909; Stats. 1909, p. 558.]

§ 6a. The department of engineering by and through the chairman of said advisory board shall have the power to appoint one engineer who shall be particularly skilled and qualified by experience in highway construction and who shall be desig-

nated highway engineer and such assistant engineers, designers, draughtsmen, clerks, stenographers, and such other technical assistants and help as the advisory board may, in its judgment, deem necessary and said advisory board shall fix their salaries and compensation and prescribe their duties. [New section approved April 8, 1911.]

§ 7. The advisory board shall meet at such times as the work of the department may require and shall meet at least once in two months. Said board shall advise with the state engineer, highway engineer or state architect as necessity requires and may advise with the boards of managers or trustees of the various state institutions requiring engineering or structural work and with any state commission regarding all works wherein such commission may be interested. The advisory board shall approve all plans specifications for all public work and shall determine the kind, quality and extent of all public work of the state. All boards of managers, trustees and state commissions of state institutions shall apply to the department of engineering for plans and specifications for all public works coming under their and charge and before accepting any such work done under contract shall have a certificate from the state engineer who shall examine and certify to its completion. All public work coming under the full control of the department of engineering may upon the discretion of the advisory board be either contracted for or done by day's labor. The advisory board shall have the power on the approval of plans and specifications by the state engineer, to direct whether any building or structure at any state institution shall be let by contract in part or in whole, or whether said building or structure shall be built by day's labor in part or in whole, but after approval of the plans, specifications and estimates by the advisory board of the department of engineering, if, in the opinion of such department of engineering, the acceptance of any bid or bids shall

not be for the best interests of the State, or if in the opinion of such department of engineering the acceptance of any further bids after the rejection of all bids submitted shall not be for the best interests of the State, it may be legal for them to direct that the work or improvement of any State building, road or any other improvement be done upon a day's labor basis. Whenever any public work to be done by the State except work on property of the State on the water front of the city and county of San Francisco under the jurisdiction of the board of State harbor commissioners is placed upon a day's labor basis, it is especially exempted from any law on or relating to contracts of the State. The full control of such day's labor work is placed under the department of engineering and said department shall do all things necessary to properly carry out the work. When such work is so placed upon a day's labor basis, any appropriation which is now available, or which is now or may be appropriated to become available, is by this act taken out of the control of any board of trustees, directors, commissioners, officers or other body to whom it has been appropriated, and placed exclusively under the control of the department of engineering, and the claims for said work shall be approved by the department of engineering, and audited by the board of examiners, upon whose audit the controller shall draw his warrant and the treasurer shall pay the same. The department of engineering shall have the power to receive informal bids upon any subdivision of the day's labor work and the State engineer may upon the approval of the advisory board enter into an agreement for any such subdivisional work of the day's labor work. [Amendment approved April 8, 1911.]

§ 8. The full control of all public work being done or now completed by the board of public works shall be assumed by the department of engineering and all public work done by the state, except as

otherwise provided for by law, shall be under the full control of the said department. It shall be the duty of the department of engineering whenever required by the advisory board to make examinations of lands subject to inundation and overflow by flood waters and of the waters causing such inundation or overflow and plans and estimates of the cost for works to regulate and control such flood waters. All matters of drainage, and improving and rectifying river channels and other work on any river or slough flowing into San Francisco bay, San Pablo bay, and Suisun bay, and also the tide waters flowing into said bays, shall be placed under the management and control of the department of engineering whenever the law provides therefor. The department of engineering shall have charge of all expenditures unless otherwise provided by law for all public works relating to general river and harbor improvements, including reclamation and drainage of lands. It may purchase, construct and operate one or more dredges or any other needed appliances to promote or properly carry out the work of the department. The state engineer in the name of the State of California, may obtain or condemn any right of way necessary for any construction herein named and shall proceed if necessary, to condemn under the terms of the Code of Civil Procedure relating to such proceedings. The department shall have the power to employ such additional help for the performance of the work of this section as the advisory board shall order and all money now appropriated to the board of public works and remaining unexpended shall be used for the purposes intended by the law, by the department of engineering, and the state controller shall transfer said funds to the credit of the department of engineering. Wherever under any statutes of this state any duty or obligation the performance of which is imposed upon the commissioner of public works or the audit-

ing board to the commissioner of public works, the same shall be assumed and the performance of the same shall devolve upon the department of engineering.

§ 9. The department of engineering shall take full possession and control of all roads which have been declared state highways enumerated as follows: The Lake Tahoe wagon road, the Sonora and Mono road, the Mono Lake Basin road and all other state highways which may hereafter be constructed and all public work being done or now completed by the department of highways. All expenditures by the state for highway purposes except as otherwise hereafter provided by law shall be under the full charge of the department of engineering, and all moneys appropriated for such purpose shall be made payable upon the proper order of said department and shall be audited by the state board of examiners. The department of engineering, in the name of the people of the state of California, shall have the power to obtain or condemn necessary rights of way for any authorized state highway or for the change of any existing state highway or for any road placed under the department's charge by law unless otherwise provided. It shall have power to alter or change the route of a road and shall do all things necessary, and obtain all tools and implements required to properly care for and manage the roads under the charge of the department. The department may, in its discretion, appoint superintendents of the state highways who shall hold office at the pleasure of the appointive power. They shall be specially qualified in road work. All unexpended balances of money now existing by law for improvements or maintenance of whatever kind under the department of highways, and the Lake Tahoe wagon road commissioner shall be placed under the control of the department of engineering, and the state

controller shall transfer said funds to the credit of the department of engineering. Whenever under any statutes of this state the performance of any duty or obligation is imposed upon the department of highways, the same shall be assumed by and the performance of the same shall devolve upon the department of engineering. [Amendment approved April 8, 1911.]

§ 10. The department of engineering shall make examination into existing highway conditions in the State of California, and shall, furthermore, make such investigations within the state as will put at the service of the state the most approved methods of highway improvement. It shall supply, on request, without charge, any information relative to highways required by any county or district official having care of and authority over highways within this state. It shall collect and collate data relating to the geological formation of the state in so far as it relates to material suitable for highway construction, and make analyses and tests of such material as it may deem suitable for highway uses, with the view of determining the value of the same for such purposes. All data so collected, together with such other matters of value or interest to the people of the state, shall be published in bulletins, or upon maps or diagrams, or in other proper form, or in the biennial report of the department, as it, in its discretion, shall determine. The department shall prepare and adopt styles and forms of books for use by officials, in which to keep account of the expenditure of highway money and all other records or proceedings relating to highways. It shall prepare such forms as may be necessary for use in connection with opening, abandoning, altering, locating, constructing, maintaining, obtaining title to, or otherwise relating to proposed state highways; and such books and forms, when so adopted, shall be the standard for the use of the state. Copies of them

shall be forwarded to the various officials who are charged with keeping or using the same, and such officials shall immediately prepare books and forms after the style shown by such standard, and shall thereafter use them exclusively for the purposes for which they are intended. It shall be the duty of the department to adopt such general forms for the surveying of state highways, mapping and keeping of the notes thereof, and the permanent marking of the same on the ground, as it shall deem necessary, and shall issue instructions defining such general forms and markings to the person having charge of the making of such surveys; and it shall thereafter be the duty of such persons to follow the methods prescribed in such instructions. The department of engineering, in performance of its duties, shall have the power to call upon any state, county, or district official to furnish it with any information contained in his office which relates to or is in any way necessary to the proper performance of the work of said department; and it is hereby made the duty of such officials to furnish such information without cost.

§ 11. All architectural work of the department shall be under the charge of the state architect, and it shall be the duty of said architect to make plans and specifications and estimates for all work for state buildings. He shall, in company with the state engineer, visit and inspect all completed architectural work and shall certify to the state engineer its proper or improper completion. The state architect shall have general charge under the state engineer of the erection of all buildings and must have an inspector at each building during the whole time of its construction. [Amendment approved April 8, 1911.]

§ 12. One assistant state engineer shall be assigned to the state board of harbor commissioners at San Francisco, where he shall have an

office. He shall prepare such plans and specifications as the board may direct and if adopted and the work ordered by the board to be done, must superintend its construction. He must give constant attention to the condition of the sea wall and thoroughfare, of the sheds, wharves, piers and landings, of the streets or parts thereof under the jurisdiction of the board, and when repairs are needed, must forthwith report to the board in writing their nature and extent, and if ordered by the board, must have the same done at once. He must keep himself informed as to the depth of water in the various docks and slips and report to the board from time to time what dredging is required. He must keep a register properly indexed, showing the date, place and character of every piece of work done and dock dredged, when begun and finished, with proper descriptions and drawings. He shall do all engineering work required by the said board of harbor commissioners. Said assistant engineer shall be subject to the control, at all times, of the state engineer, and a copy of all work under his charge as assistant engineer shall be filed in the office of the department of engineering. A complete record of cost in detail, of all work done under the supervision of this assistant engineer shall be filed with the department of engineering upon the completion thereof. One engineer's draughtsman shall be assigned to the said harbor board by the state engineer, and the advisory board of the department of engineering shall employ such field and other assistants to the foregoing assistant state engineer as may be necessary and such field and other assistants shall be paid from the San Francisco harbor improvement fund.

§ 13. All co-operative engineering work now existing or to be engaged in by the state with the United States government shall be placed under the

department of engineering. All plans, estimates and specifications shall be approved by the state engineer and the advisory board shall have full power to determine the kind, quality and extent of such work under co-operation with said government before entering into agreement with said government for such work. All unexpended moneys provided for by law on the aforesaid co-operative basis shall be expressly placed under the full control of the department of engineering, and the state controller shall transfer such funds to the credit of the said department. Hereafter plans, estimates and specifications for such work shall be filed in the office of the said department.

§ 14. It shall be the duty of the state engineer to consult and advise with the members of the corps of engineers of the United States army comprising the California debris commission (created by act of congress approved March first, eighteen hundred and ninety-three), in relation to the construction of works for the restraining and impounding of debris resulting from mining operations, natural erosion, or other causes; and it shall be his duty to examine such works and to report the result of such examination to the advisory board. Said state engineer is further authorized and directed to consult and advise with said "California Debris Commission" in relation to any and all plans and specifications that may have been or may hereafter be prepared or adopted by said "California Debris Commission," for the construction of such restraining or impounding works, and said state engineer shall file a copy of all such plans and specifications in the office of the department. Whenever the advisory board approves said plans and specifications the state engineer shall notify the "California Debris Commission." Whenever said "California Debris Commission" or the government of the United States shall have entered into any contract for the con-

struction of works for the purposes described in this act, in pursuance of plans and specifications that have been theretofore approved by the advisory board as in this act provided, it shall then be the duty of the state engineer to cause such work to be carefully inspected during the progress of their construction and to keep a record of the result of such inspection. Said state engineer shall also from time to time, during the progress of the construction of such works, when requested so to do by the said "California Debris Commission," present his claims to the state board of examiners in favor of such person or persons as may be designated by said "California Debris Commission" for such amounts as shall equal one-half of the cost of the construction of said works; and said state engineer shall in like manner, and when requested so to do by said "California Debris Commission," present his claims to the state board of examiners for an amount equal one-half the purchase price of any site or sites necessary for the construction of said works, provided, that the purchase of said site or sites shall have been first approved by the advisory board. All unexpended balances of money provided by law for the work under the debris commissioner shall be placed to the credit of the department of engineering by the state controller. Whenever under any statutes of the state any duty or obligation the performance of which is imposed upon the debris commissioner, the same shall be assumed and the performance of the same shall devolve upon the department of engineering.

§ 15. When in his judgment it is deemed necessary, the state engineer, subject to the approval of the advisory board, shall employ such assistance on the public work of the state or on public work at any state institution as may be necessary for the proper discharge of his duties, and shall under like restrictions, have the authority to purchase such

supplies, instruments, tools and conveniences as may be necessary for the proper discharge of the duties of the department of engineering. All employees of the department of engineering, when employed upon public work at or for any State institution in this State shall be paid, unless otherwise provided, from the revolving fund hereinafter created, and the amount of such payment shall be a charge against the institution for which such work is performed, and when collected from said institution by the department of engineering, shall be paid into said revolving fund. In all other cases, such employees shall be paid by the department of engineering. All inspectors employed by the state engineer on any public work shall render to the state engineer a full, true and correct report of the kind, manner, and progress of all work upon which he is such inspector. Any inspector who shall render a false report knowing the same to be false shall be guilty of a felony. It shall be the duty of the state engineer to keep a full, true and correct detailed account of the cost of all work done under the control of the department of engineering, and with the consent of the advisory board may employ a clerk for the proper compiling thereof. Such account shall be always open to the inspection of the public. [Amendment approved March 20, 1909; Stats. 1909, p. 558.]

§ 16. The state engineer shall prepare biennial reports which shall be submitted to the governor at least thirty days before each session of the legislature. Said report shall embrace the work and investigations of the department under his charge for the previous two years, together with such recommendations for changes in the laws affecting the department as he may deem advisable, and shall suggest and recommend changes relating to the road systems or administration within the state. It shall be the duty of the state printer to print all

reports, bulletins or other matter and furnish any other necessary illustrations or diagram therefor as the department may deem necessary, all of which shall, however, be subject to the approval of the state board of examiners.

§ 17. The highway engineer shall receive not to exceed the sum of ten thousand dollars (\$10,000) per annum; the state engineer shall receive the sum of five thousand dollars (\$5,000) per annum; and the officers and employees enumerated in section 6 of this act shall receive the following sums: Each assistant state engineer shall receive the sum of three thousand dollars (\$3000) per annum; the state architect shall receive forty-eight hundred dollars (\$4800.) per annum; each of the five draughtsmen shall receive two thousand dollars (\$2000.) per annum; the architectural designer shall receive twenty-four hundred dollars (\$2400.) per annum; the mechanical engineer shall receive twenty-seven hundred dollars (\$2700.) per annum; the testing engineer shall receive twenty-one hundred dollars (\$2100.) per annum; each of the two filing clerks shall receive eighteen hundred dollars (\$1800.) per annum; the secretary shall receive twenty-four hundred dollars (\$2400.) per annum; the blue print pressman shall receive fifteen hundred dollars (\$1500.) per annum; each clerk and stenographer shall receive fifteen hundred dollars (\$1500.) per annum, and the porter and messenger shall receive nine hundred dollars (\$900.) per annum. Such salaries shall be paid at the same time and in the same manner as are the salaries of other state officers. The highway engineer shall furnish the state with a bond in the sum of twenty thousand dollars (\$20,000); the two assistant engineers and the state architect shall each furnish the state with a bond in the sum of ten thousand dollars (\$10,000) for the faithful performance of their duties. Said bonds must be approved by the governor of the State of California and filed in the office of the secretary of state. Each of the three

appointed members of said advisory board shall receive the sum of three thousand six hundred dollars (\$3600.) per annum, payable in equal monthly installments. Each and every one of the above mentioned officers shall take the oath of office as prescribed for other state officers. The members of the advisory board, the state engineer and the officers and employees of the department of engineering shall be allowed their necessary traveling expenses while engaged in the discharge of their duties within the state. [Amendment approved April 8, 1911.]

§ 18. The state board of examiners shall audit all bills or claims incurred by the department of engineering and the state engineer shall present claims to said board for all expenditures directly under his charge. The attorney-general of the state shall be the legal adviser of the department of engineering and the said department shall call upon the attorney-general of the state for all such legal advice and services as the discharge of its duties may require.

§ 19. The sum of ten thousand dollars (\$10,000) is hereby appropriated out of any money in the state treasury not otherwise appropriated to provide and maintain a permanent revolving fund for the payment of the salaries and wages of employees in the department of engineering when employed upon public work at or for any state institution other than those employees whose salaries are fixed and determined by section 17 of this act. Such payment so made for salaries and wages shall be charged against the institutions for which said act is performed and in favor of the department of engineering, and when collected by said department, shall be paid into the revolving fund hereby created. [Amendment approved April 8, 1911.]

§ 20. It shall be the duty of the auditing board to the commissioner of public works, the commis-

sioner of public works, the state highway commissioner, the debris commissioner and the Lake Tahoe wagon road commissioner to transfer to the state controller all of the property, books, reports and papers and maps of every description which is state property, and the said controller shall transfer all of said things and property to the department of engineering.

§ 21. An act entitled "An act creating a commissioner of public works, defining his duties and powers and fixing his compensation," approved February ninth, nineteen hundred, and all acts or parts of acts amendatory thereof are hereby expressly repealed.

§ 22. An act entitled "An act to create a department of highways for the State of California, to define its duties and powers, to provide for the appointment of officers and employees thereof, and to provide for the compensation of said officers and employees, and for the additional expenses of said department, and to make an appropriation therefor for the remainder of the forty-eighth fiscal year," approved April first, eighteen hundred and ninety-seven, is hereby expressly repealed.

§ 23. An act entitled "An act providing for the appointment of an auditing board to the commissioner of public works, authorizing and directing him and them to perform certain duties relating to drainage, to purchase machinery, tools, dredges, and appliances therefor, to improve and rectify water channels, to erect works necessary and incident to said drainage, to condemn land and property for the purposes aforesaid, making certain acts a felony, and making an appropriation of money for the purposes of this act," approved March seventeenth, eighteen hundred and ninety-seven, and all acts or parts of acts amendatory thereof, are hereby expressly repealed.

§ 24. An act entitled “An act to provide for the appointment, duties and compensation of a debris commissioner, and to make an appropriation to be expended under his direction in the discharge of his duties as such commissioner,” approved March twenty-fourth, eighteen hundred and ninety-three, and all acts or part of acts amendatory thereof are hereby expressly repealed.

§ 25. An act entitled “An act to create the office of Lake Tahoe wagon road commissioner, providing the term of office and compensation of such commissioner, defining his duties, and making an appropriation for the salary and expenditures provided for and authorized by this act,” approved April first, eighteen hundred and ninety-seven, and all acts and parts of acts amendatory thereof are hereby expressly repealed.

§ 26. All acts or parts of acts in conflict with the provisions of this act are hereby repealed.

An act providing for the laying out, constructing, straightening, improvement and repair of main public highways in any county, providing for the voting, issuing, and selling of county bonds and the acceptance of donations to pay for such work and improvements, providing for a highway commission to have charge of such work and improvements, and authorizing cities and towns to improve the portions of such highways within their corporate limits and to issue and sell bonds therefor.

[Approved March 19, 1907; Stats. 1907, p. 666. Amended 1909, Stats. 1909, p. 154; amended 1911, Stats. 1911, chaps. 314, 348.]

- § 1. Highway Commission, when may be appointed.
- § 2. Of whom shall consist. Term of office. Bond.
- § 3. Main public highway defined.
- § 4. Duties of Commissioners.
- § 5. Employment of Engineer.
- § 6. Report to Board of Supervisors.
- § 7. Election to determine whether bonds shall be issued.
- § 8. Sale of bonds. Surplus. Donations.
- § 9. Supervision of funds. Plans and profiles.
Shall advertise for bids. Bond of contractor.
When may be done without contract.
- §10. Character of improvements. Highway shall not be used by railroad.
- §11. Condemnation of land.
- §12. Incorporated city may improve portion of highway.
- §13. Repairs.
- §14. Commission to file statement.
- §15. Per diem of Commissioners, from what fund paid.

§ 1. The board of supervisors of any county in the state, upon receiving a petition signed by freeholders electors of the county equal in number to at least ten per cent. of the vote cast for governor in said county at the last election, praying that the matter of issuing bonds of the county for highway purposes be submitted to the electors of the county, may appoint a highway commission for such county, who shall perform the duties hereinafter specified.

§ 2. Said highway commission shall consist of three members, who shall be, and have been for two years, bona fide residents and freeholders of such county, and shall be especially qualified to have charge of the improvement of highways, one of whom shall be a competent engineer. Said commissioners shall be appointed to serve for the term of two years and until their successors are appointed and qualified, and any vacancy in the commission shall be filled by appointment for the unexpired term; provided however, that when the proposition for the issuance of bonds fails to carry at the election held under section seven of this act, or when all the highway improvements for which

bonds are voted under said section seven are completed, or, if there is a surplus in the highway improvement fund after completion thereof, when said surplus has been expended on other highways, the existence of said highway commission shall cease. Thereafter another commission may be appointed under section one hereof. Each commissioner shall give a bond for the faithful performance of his duties, to be approved by the board of supervisors, in such amount as said board may require. No member of the board of supervisors can act or be appointed as a commissioner under this act. [Became a law, under constitutional provision, without governor's approval, March 27, 1911.]

§ 3. For the purpose of this act a main public highway is defined to be a highway connecting different cities and towns in the same or different counties, or connecting any city or town in one county with the public highway system of another county. Provision may be made under this act for the improvement of any number of such highways jointly, to be paid for with the proceeds of one bond issue.

§ 4. Immediately upon their appointment said commission shall proceed with all diligence to investigate carefully the main public highways of the county and the condition thereof, and to have made a map showing said main public highways, their connections, and such other information in regard thereto as the commission may deem necessary for carrying out the purposes of this act, and to ascertain which of said main public highways should be improved by the issuance of bonds, and the kind of improvements to be made thereon, and to estimate the cost of such improvements. And also to investigate carefully the question of laying out and constructing any new public highways which said commission may deem necessary to be laid out and constructed in the county, and to have made a map

showing said proposed new public highways, their connections, and such other information in regard thereto as the commission may deem necessary for carrying out the purposes of this act, and to ascertain whether any of said new public highways should be laid out and constructed by the issuance of bonds, and the kind of improvements to be made thereon, and to estimate the cost of such improvements. [Amendment approved March 6, 1909; Stats. 1909, p. 154.]

§ 5. With the consent of the board of supervisors they may employ a competent engineer or engineers and other experts, at the cost of the county, to make any necessary surveys and prepare said map, and to assist the commission in determining the best material to be used and the best manner of making such improvements and the cost thereof. All surveys made for the purpose of determining the location of highways shall be approved by the county surveyor before the same as adopted by the commission.

§ 6. After having ascertained what improvements should be made, and the estimated cost thereof proposed to be covered by a bond issue, the commission shall make and file with the board of supervisors a report setting forth the main public highway or highways proposed to be improved, by their termini, describing generally the kind of improvements to be made thereon, and stating the estimated cost of the work to be done, and the amount to be raised by bonds therefor, and praying the said board of supervisors to call an election for the issuance of bonds of the county therefor, for the estimated amount.

§ 7. If said report is not approved by the board of supervisors they may refer it back to said commission for further consideration. If the board approve the report they shall adopt the same, and

shall without delay call an election to determine whether the bonds of the county shall be issued in the amount recommended by the commission, for the purposes stated in their report. Said election shall be called and held and said bonds issued, sold and paid under and in accordance with all the provisions of law now or hereafter existing in regard to the issuance, sale and payment of county bonds, and all proceedings had in regard to such bonds shall be in accordance with such provisions of law; provided however, that the board may form bond election precincts by consolidating the precincts established for general election purposes to a number not exceeding six for each bond election precinct, and shall appoint only one inspector, two judges and one clerk for each bond election precinct, and provided further, that it shall be sufficient to set forth the purpose of the bond issue in said proceedings by describing the highways to be improved as the same are described in said report of the highway commission. Any defect or irregularity in the proceedings prior to the calling of such election shall not affect the validity of the bonds.

§ 8. Said bonds shall not be sold for less than par, and the proceeds thereof shall be paid into the treasury of the county and placed in a special fund to be denominated the "highway improvement fund"; and shall be used solely for the purposes set forth in said report of the highway commission, or such other purposes as are authorized by this act; provided, that if there shall be any surplus of funds voted for the improvement of any road or roads after the completion thereof, such surplus may be used for the improvement of other main public highways, under the control and direction of the highway commission. The highway commission may receive and accept donations from any person for any work which they are authorized to have done, and the same shall also be paid into

the said fund. No moneys shall be paid out of said fund except upon the warrant of the auditor of said county issued upon the order of the highway commission, duly allowed by the board of supervisors thereof.

§ 9. The doing of the work for which said bonds are issued shall be under the supervision and direction of the highway commission; provided that the final acceptance thereof shall be by the board of supervisors. As soon as the funds raised by the sale of said bonds are in the treasury the commission shall proceed to prepare detailed specifications, plans and profiles for the work to be done, or for such parts of it as they deem it advisable to have done separately, if they have not already done so, and for this purpose they may hire assistants, with the consent of the board of supervisors; and they shall then present said specifications, plans and profiles, with their recommendations in regard to the doing of the work and letting of contracts to the board of supervisors, who shall either adopt or reject the same as presented. If the board adopt the same they shall thereupon advertise for bids for doing the said work, or any part thereof which the highway commission recommended should be done separately, in accordance with said plans, profiles, and specifications, by publishing a notice for ten days in a daily newspaper or two weeks in a weekly newspaper published at the county seat. Every contract for doing any part of said work shall be let, after advertisement as above provided, to the lowest responsible bidder who will give security for the faithful performance of his contract, with sureties satisfactory to the board of supervisors, in such amount as they may fix, which shall be stated in said advertisement; provided, however, that the board may authorize the highway commission to make contracts, without advertisement, for any

part of said work the cost of which does not exceed one thousand dollars; and provided further, that the board may reject all bids and may thereupon readvertise for bids for doing any part or the whole of said work, or in their discretion authorize the highway commission to purchase the necessary material, purchase or hire tools and appliances, and hire laborers, and to do the work or any part thereof without letting any contract therefor. In such case all contracts for materials, tools or appliances, amounting to more than one thousand dollars in value shall be let by the commission to the lowest responsible bidder, after advertisement as above provided. Said commission may, with the consent of the board of supervisors, hire all necessary engineers, inspectors and superintendents to supervise the performance of said contract, or to have charge of the doing of said work without contract.

§ 10. All improvements constructed under this act shall be of a durable and lasting character; provided, that said commission shall have the power to determine how said highways shall be improved and constructed, and the character of the materials to be used in the improvement and construction thereof. If said commission shall determine that said highways, or any of them, shall be macadamized or paved, then the macadamized or paved portion of the roadbed constructed or any highway or portion thereof improved under this act, shall not exceed sixteen feet in width, unless donations are made to the highway commission for that purpose, in which case such donations may be used to defray the increased cost of constructing such macadamized or paved roadbed more than sixteen feet wide on any part of such highway specified by the donors; but no part of the proceeds of any bond issue shall be expended for such purpose. No railroad, electric road, or street

railroad shall be constructed along or upon any highway, or any portion thereof, improved under the provision of this act, except for crossings duly authorized by the board of supervisors, nor shall any board of supervisors have power to grant any franchise for the construction of any railroad; electric road, or street railroad along or upon any such highway or portion thereof, except for crossings; provided that when any such highway or portion thereof shall, after the improvement of the same under the provisions of this act, be included within the boundaries of any incorporated city, city and county or town the foregoing provisions of this section shall not prohibit the granting of any such franchise by the proper municipal authorities along, upon or across any such highway, or portion thereof so included within the boundaries of any such incorporated city, city and county, or town. Any such franchise shall be granted only upon the express condition that the grantee thereof will pay to the county for the benefit of the general fund thereof an amount equal to the cost of the improvement or construction of such portion of the roadbed or highway constructed or improved under the provisions of this act as shall be occupied by the track or tracks of such railroad, electric road or street railroad. [Amendment approved April 3, 1911; in effect immediately.]

§ 11. Whenever the said highway commission shall deem it necessary the board of supervisors may, on its recommendation, cause any highway it proposes to improve to be widened, straightened, or altered, and cause new highways to be laid out and constructed, and for that purpose they may acquire land in the name of the county by donation or purchase; and may order the condemnation of such land and direct the district attorney to bring an action in the name of the county for that purpose under the provisions of the Code of Civil Procedure in relation to eminent domain. In such action the order of

the board of supervisors shall be conclusive evidence of the regularity of all prior proceedings. The cost of purchasing or condemning such land shall be paid out of the highway improvement fund. [Amendment approved March 6, 1909; Stats. 1909, p. 154.]

§ 12. No part of any highway lying within the corporate limits of any incorporated city or town shall be improved under the provisions of this act; but, when any highway which is being so improved shall pass through any incorporated city or town, said city or town is hereby authorized to improve the portion of such highway lying within its corporate limits, and for the purpose of raising the necessary funds therefor, to issue bonds in such manner as may be provided by law for the issuing of bonds by such city or town for public improvements.

§ 13. All necessary repairs to any highway improved under this act shall be made by the same officers who may be charged with the duty of repairing other highways of the county, and the cost of such repairs shall be paid out of the general fund of the county.

§ 14. Said highway commission shall, at least once in every six months, make and file with the board of supervisors a detailed statement of their proceedings, showing the amount of money in the highway improvement fund at the time of their last statement, the amount of all donations since received, and the purposes for which said donations were made, the amount since expended, with the purposes for which it was expended and the balance remaining, the contracts entered into or other obligations incurred by them and still outstanding, the highways in course of improvement or completed since their last statement, and the condition of the

work on each, together with any other information that they may consider of interest to the public.

§ 15. Each member of said highway commission shall receive a per diem of five dollars for each day actually and necessarily spent in the discharge of his duties, together with his actual necessary traveling expenses, to be allowed by the board of supervisors and paid monthly. Said per diem and expenses and all other demands against the county which said highway commission are authorized to incur shall be paid out of the general fund of the county until there shall be money in the highway improvement fund derived from the sale of bonds, whereupon the general fund shall be reimbursed from the highway improvement fund for the amounts so expended, and thereafter said per diem and expenses and other demands shall be paid out of said highway improvement fund; provided, however, that after the preparation and filing of their report and recommendation for the issuance of bonds the members of said highway commission shall not receive any per diem or expenses unless there is money in said highway improvement fund to pay the same.

§ 16. This act shall take effect immediately.

An Act to provide for work upon public roads, streets, avenues, boulevards, lanes and alleys not within the territory of incorporated cities or towns; for the incidental establishment of grades thereof; for the construction therein or thereon of sidewalks, sewers, manholes, bridges, cesspools, gutters, tunnels, curbing, and crosswalks; for the issue of bonds representing the costs and expenses thereof; for a special fund derived in part from the county road fund and in part by special assessment

upon a district, and for the establishment of such districts.

[Approved March 21, 1907; Stats. 1907, p. 806; amended 1911, Stats. 1911, chap. 315.]

- § 1. Road district improvement. Power of Board of Supervisors. May issue bonds. Special taxes. Prohibited work.
- § 2. Specifications to be furnished. Resolution of intention.
- § 3. Form of resolution of intention to order work.
- § 4. Publication of resolution. Copies to be posted. When Board acquires power to proceed. Evidence.
- § 5. Objections to work. Findings of Board to be of record. Owners of land defined. Hearing of objections.
- § 6. When Board to order work. Boundaries of district. Notice for proposals for doing work.
- § 7. Publication of notice. Consideration of bids. Notice of award to be published. Bonds accompanying bids. Successful bidder to pay for advertising.
- § 8. When bidder fails to enter into contract.
- § 9. Terms of contract. Bond of contractor. What county must undertake.
- §10. When work is completed declaration to be filed. Notice of hearing whether work be accepted. Form of notice, publication of. Hearing continued. Objection to acceptance.
- §11. Resolution of acceptance.
- §12. County Treasurer to issue bonds. Form of bond. Interest coupons. Number of years to run. Interest payments.
- §13. Special bond fund. Special tax. Transfer from general road fund.
- §14. Powers of Supervisors. Appointment of Engineer. Superintendent of work. Other employees.
- §15. Costs of proceedings, by whom paid.
- §16. Place of publication may be changed, how.
- §17. All papers to be filed with County Clerk.
- §18. Name of act.

§ 1. Power is hereby vested in the board of supervisors of every county in this state, by and under the procedure prescribed in this act, to grade or regrade to the official grade, plank or re-plank, pave or re-pave, macadamize or re-macadamize, gravel or re-gravel, pile or re-pile, cap or re-cap, oil

or re-oil the whole or any portion of roads, streets, avenues, boulevards, lanes or alleys so far as not within the territory of any incorporated city or town, and so far as by dedication or otherwise, public and open to public use, and to do so for any length or width of the same, one of the same or any number of the same in combination, and to construct therein or thereon sidewalks, sewers, man-holes, culverts, bridges, cesspools, gutters, tunnels, curbing and crosswalks, and to do the aforesaid things singly or in any combination of the same, and the various items of the said work and constructions need not be conterminous; and to issue bonds representing the costs and expenses of any said work or constructions as in this act hereafter provided; and to constitute a fund for the payment of such bonds as in this act hereafter provided; and to constitute a special fund for the payment of such bonds as in this act hereafter provided; and to levy special assessment taxes upon a district as in this act hereafter provided; and to establish said district and determine its boundaries as in this act hereafter provided; and, as incidental to the exercise of the powers aforesaid, to establish official grades within said district and such districts; and to transfer from county road funds to such special funds as in this act hereafter provided.

But said board of supervisors are hereby prohibited from doing, under the provisions of this act, any work (except sewer work) within the right of way for any railroad or within any area which by law is required to be kept in order or repair by any person or company having railroad tracks thereon, and this prohibition shall have the effect of excepting the prohibited work from that described in any resolution of intention in any proceeding under this act, and of charging all persons with notice of such exception or exclusion, and such exception of said

prohibited work need not be made in any such resolution of intention.

§ 2. Before passing any resolution of intention under this act, specifications for work substantially the same as that described in the resolution of intention and for a district substantially the same as that described in the resolution of intention shall be furnished by some competent person who shall have been designated by the board of supervisors for that purpose by a resolution to be entered by the clerk upon the minutes of said board, and, except where there is already an official grade thereof, as a part of such specifications, grades shall be specified for all roads, streets, avenues, boulevards, lanes and alleys within the described district so far as the same are within such district.

Neither the work nor the district need be described in the resolution appointing such person except so far as may be sufficient to identify the work and district for which the specifications are prepared, and for such purpose it shall suffice to designate the same as "In the Matter of Road District Improvement No. ——— and Resolution of Intention No. ——— (inserting the same number in both blanks.)

Such specifications shall include an estimate of the aggregate amount of the cost of the work inclusive of incidental expenses and of the procedure. Such specifications shall be signed by the person designated to furnish them and be filed with the clerk of the board of supervisors.

§ 3. Before ordering any work to be done under this act, the board of supervisors shall pass a resolution of intention so to do. Such resolution may, in form, and shall, in substance, be (filling all blanks) as indicated following, to wit:

In the Matter of Road District Improvement No. ——— Resolution of Intention No. ——— (the same number for both blanks).

Resolved: That it is the intention of the Board of Supervisors of the county of _____, State of California, proceeding under and by virtue of the Road District Improvement Act of 1907, and in the Matter of Road Improvement District No. _____. on the ____ day of _____, 191—, at the hour of ____ m. of that day or as soon thereafter as the matter can be heard, at the chambers of said board, to order work to be done, as follows: (Here insert a description of the work, stating the territorial extent thereof with all reasonable exactness, and in other particulars generally, yet so as to indicate fairly and approximately its probable cost), the said work to be done in accordance with the specifications therefor filed with the clerk of said board on the ____ day of _____, 191—, except as the boundaries of the district and grades therein specified may be changed at the hearing of the matter hereinafter mentioned, which specifications are made part hereof, and to which all persons are referred for further particulars as to said work. For the costs and expenses of the work and the proceeding bonds will be issued to the amount of the same, bearing interest at the rate of ____ per cent. per annum, payable semi-annually, and one ____ part of the principal annually, all in gold coin.

A special fund for the payment of said bonds is to be constituted partly by transfer of moneys from county road funds and partly by the levy of special assessment taxes upon all land within a district to be known as "Road Improvement District No. ____ of the County of _____."

Such district (as proposed) being all that territory in the county of _____, State of California, within exterior boundaries as follows, to wit: _____ (the blank to be filled with a careful statement of the exterior boundaries of the district).

Notice is hereby given that at the time specified hereinbefore for ordering the work, the Matter of said Road District Improvement No. — will come up for hearing, and all objections, which are, under the provisions of said Road District Improvement Act of 1907, entitled to be heard or determined. will then be heard and determined, and the boundaries of said district and grades therein be finally determined and established.

The —, (here insert name and character of newspaper) is hereby designated as the newspaper for making publication of this resolution and for making all other publications in the proceeding.

—, a competent person, is hereby appointed superintendent of work with compensation at the rate of — dollars per diem for days actually spent in performance of duty under this appointment.

The foregoing resolution was, on the — day of —, 191—, passed by the board of supervisors of the county of —, State of California.

Attest —

Clerk of the Board of Supervisors
of said County of —

By —

(Adding if the fact so be) Deputy Clerk.

The principal and interest of the bonds representing the cost of work done under the provisions of this act, shall be payable in gold coin of the United States of America, and the board of supervisors is authorized to determine the time, not to exceed twenty years, in which bonds issued to represent the cost of the work shall be paid, and to determine the rate, not to exceed seven per centum per annum, of the interest to be paid thereon, which interest shall be payable semi-annually, and to make such bonds in all respects as indicated by the form therefor, in this act hereafter provided.

Sec. 4. Such resolution of intention shall be filed, and be published by at least two insertions in the newspaper therein designated, which shall be a newspaper published and circulated in the county, or, if there be no such newspaper, then in any newspaper designated by said board of supervisors in such resolution. Printed copies of such resolution, headed "Notice of Road District Improvement," such heading to be in letters not less than one inch in length, shall be, by the superintendent of work, posted along the line of the work described in said resolution, at not more than one hundred feet in distance apart, but not less than three in all.

Affidavits in proof of such publication and posting shall be filed with the clerk of the board of supervisors. When, before the day of the hearing specified in the resolution of intention, twenty days have elapsed since the posting and the first publication (they need not be simultaneous) of the resolution of intention, the board of supervisors shall have acquired power to proceed with such hearing and to take all other action in the proceeding as is in this act authorized.

The determination of the board of supervisors to proceed with such hearing, whether evidenced by an express declaration or by its proceedings to make other determinations at such hearing, shall be presumptive evidence, at the least, of the existence of all the facts upon which the power of the board to proceed depends, except such as are required to appear of the record in the proceeding, and except, also, in so far as such presumption is rebutted by the record in the proceeding.

Sec. 5. At any time before the day in the resolution of intention specified for ordering the work and the hearing of the matter, any owner of land within the boundaries of the district as set forth

in said resolution, may, severally, or with other such owners, file with the clerk of the board of supervisors written objection to the ordering of the work as an entirety, and not merely to some part thereof, as described in the resolution of intention.

If upon said hearing it appears that a majority of the owners of land within the district, as set forth in the resolution of intention, have so in writing made objection going to the entirety of the work described in the resolution of intention and to the ordering of the same, the board of supervisors shall, by a resolution, to be entered in its minutes, so find; and thereupon such board shall have no power to proceed further under said resolution of intention, or to pass any resolution of intention for doing the same work, during a period of one year, next after the time of such finding; and the accrued costs of the proceedings shall be a charge upon the county. But if the fact be that a majority of the owners of land lying within the district, as set forth in said resolution of intention, have not so in writing made objection going to the ordering of the work, as an entirety, the board of supervisors shall so find, and thereupon proceed with the hearing; but such finding need not then be in writing and may, for the purpose of proceeding with the hearing, be a mere announcement of the board, to be noted in the minutes by the clerk.

At the conclusion of the hearing, however, the said finding shall, severally or with other determinations of the board, be made in writing, to be filed and entered upon the minutes of the board.

Owners of land within the meaning of this section are those, and those only, who appear to be such upon the records in the recorder's office of the county in which the district is situated, on the day before the day for said hearing, and an executor

or administrator shall be deemed representative of his decedent, and a trustee of an express trust in land other than as security for the payment of money, of the land held in such trust, and a trustee in bankruptcy, of the bankrupt.

Next after in order of hearing, the board shall proceed to hear such objections as may be made to the grades specified in the specifications.

Thereafter, in the order of the hearing shall be heard such objections as shall be made to the boundaries of the district as set forth in the resolution of intention. Objection to the grades or to the boundaries of the district may be made by an owner of land lying within the district upon the hearing without any written statement of the same.

The hearing may be continued from time to time by the board of supervisors by an order to be entered in the minutes of the board.

Sec. 6. Unless the power to proceed shall have ceased, as hereinbefore provided, the board of supervisors shall in conclusion of the aforementioned hearing, and as a sufficient determination of all questions arising thereat, by resolution or resolutions to be entered upon its minutes, declare its finding that a majority of the owners of land within the district described in the resolution of intention have not before the day of the hearing filed written objection, going to the ordering of the work to be done, and determining the boundaries of the district, and the grades thereon. If no changes be made in the boundaries of the district as the same are set forth in the resolution of intention, it shall be sufficient to state that the boundaries of the district are those set forth in the resolution of intention, but if any change of such boundaries is made, the boundaries of the district, as finally determined, shall be fully set forth.

If no change be made as to the grades, as set forth in the specifications on file, it shall be suffi-

cient to state that the grades of the same, as finally determined, are those set forth in such specifications. In either case, the boundaries of the district so determined shall be the boundaries of the district for all purposes of the proceeding and until any bonds to be issued for the cost of the work shall have been fully paid and discharged; and the grades so determined shall be the grades of the district for all the purposes of the proceeding and the "official grade" within the meaning of section 1 of this act; provided, however, that the boundaries of the district, as the same are set forth in the resolution of intention, shall not be so changed as to include within the district any territory not within its boundaries as set forth in that resolution, nor so that the place or locality of any work described in such resolution of intention shall be excluded from the boundaries of the district as so finally determined.

In like manner the board of supervisors may order the work to be done, and if it so do, shall fix a time for receiving proposals or bids for doing the work, and direct the clerk to give notice accordingly, inviting sealed proposals or bids. Such notice shall include a statement that the work is to be done "under the provisions of the Road District Improvement Act of 1907, and according to the specifications on file therefor, except in so far as the grades specified therein shall have been fixed otherwise by the board of supervisors in conclusion of the hearing in said act provided; to which said act, to the resolution of intention and all proceedings had thereunder the attention of bidders is hereby directed, and by this reference made part of this notice."

Sec. 7. The notice inviting sealed proposals or bids shall be published by at least two insertions in the newspaper designated in the resolution of intention, and (not necessarily simultaneously) a

copy or copies of the same be posted and kept posted for five days, at or near the chamber door of the board of supervisors. All proposals or bids shall be accompanied by a check, payable to the order of the presiding officer of the board of supervisors, certified by a responsible bank for an amount not less than ten per cent of the aggregate of the proposal or bid, or by a bond for said amount running to the presiding officer of the board of supervisors, signed by the bidder, with two sureties qualifying each in said amount over and above all statutory exemptions before an officer competent to administer an oath.

Said proposals or bids shall be delivered to the clerk of said board, and said board shall, in open session, examine and declare the same, but no proposal or bid shall be considered unless accompanied by said check or such bond in terms satisfactory to the board. The board may reject any and all proposals or bids should it deem this for the public good, and shall reject all proposals or bids other than the lowest regular proposal or bid of any responsible bidder, and may award the contract for said work to the lowest responsible bidder at the price named in his bid.

A notice of such award, attested by the clerk of the board of supervisors, shall be published and posted for five days in the same manner as hereinbefore provided with respect to the notice inviting proposals or bids.

The check or bonds accompanying such accepted proposals or bids shall be kept by the clerk of said board until the contract for doing said work, as hereinafter provided, has been entered into. If said bidder fails, neglects or refuses to enter into the contract for said work, as hereinafter provided, then the certified check accompanying his bid, and the amount therein mentioned, shall be declared forfeited to the county, and may be collected by

it and paid into its road fund, and any bond forfeited may be prosecuted, and the amount thereof collected and paid into said fund.

Before being entitled to a contract the bidder to whom the award thereof has been made must advance and pay to the clerk of the board of supervisors, for payment by him the costs and expenses of publishing and posting resolutions, notices and orders required under this act to be made, which have been made, given, posted or published in the proceeding.

Sec. 8. If for fifteen days after being awarded the contract, the bidder to whom the contract was awarded fails, neglects or refuses to enter into the contract, the board of supervisors may direct the clerk of the board to give notice as in the first instance, inviting sealed proposals or bids, and thereupon shall by bidding, award, and other proceedings as in the first instance; and as in the case of default of a first awardee, so, also in that of a second.

Sec. 9. The presiding officer of the board of supervisors is hereby authorized, in the name of the county, to execute the contract with the awardee of the same, and to receive and approve all bonds by this act required on the part of such awardee, and shall, by the terms of said contract, fix the time for the beginning of the work, which shall not be more than twenty days from the date thereof, and the contract shall provide that the work be prosecuted with diligence until completed, and a time for such completion shall be in the contract fixed, but such time of completion may be extended from time to time by the board of supervisors, in its discretion, and by resolution, which shall be entered by the clerk in the minutes of said board, a copy of which shall be by said clerk endorsed upon or annexed to the contract.

Before entering upon such contract, a bond shall be executed and filed, running to the county, in an amount not less than one-half of the contract price of the work, signed by the contractor and two or more sureties, who shall aggregatedly, unless surety companies, qualify before an officer entitled to administer the oath in a sum equal to the amount of the bond, each surety in the amount for which he becomes surety. Such bond shall be conditioned for the faithful execution of the contract by the party contracting to do the work, and the payment by him for all labor and materials furnished for or in the doing of the work. The form and sufficiency of said bond shall be passed upon by some member of the board of supervisors, and such bond shall inure as well to the benefit of any and all persons furnishing labor or materials for the work as to the county.

Said contract shall undertake on behalf of the county that the board of supervisors will, upon the fulfillment and performance of the contract on the part of the contractor, and under the provisions of the "Road District Improvement Act of 1907," take all steps in or by said act authorized to be taken, to effect the issuing by the county treasurer of the bonds in said act authorized to be issued, and provide a fund for the payment of the same, as in or by said act prescribed; and it shall be in such contract stated that in no case shall the county be liable under the contract, nor any officer thereof be thereunder holden except for the discharge of official duty under the law.

Sec. 10. As soon as may be done in good faith, there shall be filed with the clerk of the board of supervisors a declaration that the work has been completed according to the contract, together with an itemized statement of all the incidental costs and expenses of the work and the proceeding, in-

clusive of the estimated cost of publishing the notice of final hearing hereinafter mentioned.

The aggregate of such items shall be stated, and, also, the amount due as of the contract price; and also the gross sum for a bond issue representing the entire amount thereof, as claimed by the contractor. The said declaration and statements shall be signed and verified by the superintendent of work, and by the contractor or some person cognizant of the facts, signing on behalf of the contractor, and stating why he, instead of the contractor, so signs and verifies. Either signer may except from his signature and verification any amount or item to which he does not assent.

The presiding officer of the board of supervisors is hereby authorized to fix a time and give a notice for a hearing for the purpose of determining whether the work shall be accepted as being completed according to the contract, and for determining the aggregate amounts for which bonds shall be issued representing the total cost of the work, and the amount of the incidental costs and expenses of the work, and the proceedings which is to be charged to and paid by the contractor.

Such hearing shall be known as the final hearing. The notice of such hearing may, in form, and shall, in substance, be (filling the blanks) as follows:

Notice of Final Hearing
In the Matter of Road District
Improvement No. —

Notice is hereby given that a final hearing of the above named matter will be had at the hour of — M. on the — day of —, 191—, at the chamber of the board of supervisors of the county of —, State of California, for the purpose of determining whether the work done under the contract made with — under Resolution of Intention No. — in Road Improve-

ment District No. — of the county of — shall be accepted as being performed according to the contract, and for determining the aggregate amount for which bonds shall issue representing the cost of such work, inclusive of the incidental costs and expenses of the work and the proceeding, of which a statement has been filed with the clerk of said board of supervisors of the county of —, to which statement the attention of all persons interested is hereby directed.

— of the Board of Supervisors
of the county of —

Attest: —

Clerk of said Board of Supervisors.

By —

(If so the fact be.)

Deputy Clerk.

Such notice shall be signed by the presiding officer of the board of supervisors and attested by the clerk of the board of supervisors and published by at least two insertions in the newspaper designated in the resolution of intention, and a copy or copies thereof posted and kept posted for two days at or near the chamber door of the board of supervisors, the first day of such publication and that of such posting (they need not be simultaneous) to be not less than five days before the day in said notice specified for the hearing.

Proof of such publication shall be made by affidavit or affidavits, and the same shall be filed. If a quorum be not present at the time in the notice specified for the hearing, a member or members of the board then present may continue the hearing from day to day, and at all stages thereof the hearing may, by resolution, to be entered in the minutes, be continued from time to time.

At any time before the day in said notice specified for the hearing, any owner of property not

exempt from taxation within the district, as finally established, may solely or with any other such owner or owners, file written objection to the acceptance of the work on the ground that the work has not been completed or done according to the contract, specifying in ordinary language the particulars in which the contract has not been so completed or done.

Any person interested in the proceeding, as of the interest of the contractor, shall be presumed to take issue with such objection, and be heard accordingly.

Questions going to the incidental costs or expenses of the work or the proceedings may be raised orally by any owner of property not exempt from taxation, situated within the district.

Evidence may be adduced going to any of the matters to be determined, and in such order as the board may summarily direct.

If, when the matter has been fully heard, whether under or in the absence of objections, the board of supervisors is of the opinion that the work has not been completed or done according to the contract, it shall in writing specify what must be done in order to complete the work, and shall, by an order or resolution to be entered in its minutes, continue the further hearing of the whole matter to a specified day, expressly stating that such continuance is for the purpose of enabling the contractor to complete his contract.

On said continued hearing the objections filed before the day of the first hearing shall continue in force as against the work, and evidence be received, if offered, as to what has been done by way of completing the contract in the particulars specified in the order of the board on the said continuance of the hearing.

If, upon such continued hearing, it is the opinion of the board that the work is still uncompleted in the particulars as to which it was ordered to be completed, it shall be discretionary with said board to order or refuse a second continuance of the hearing. If the board do order such second continuance, it shall be ordered in the same manner and with like effect as provided aforesaid, upon the first continuance.

And as provided aforesaid for a second continuance so of any other or further continuance.

Objections to any item of incidental costs and expenses shall pend and be heard on said day, or at any continued hearing had, as in this section aforesaid provided.

Every continuance of said hearing for the purpose of enabling the contractor to complete his contract or the work shall continue or revive such powers of the board of supervisors had, under the provisions of this act, in the proceeding, at the time of the filing of the contractor's declaration that the work was completed, as provided aforesaid, and also operate to extend the time for the completion of said contract in such manner that its completion within the time to which the hearing is continued, shall be as valid performance of such contract as if completed at the time of filing such declaration or statement.

Sec. 11. Whenever upon the hearing in section 10 aforesaid provided, whether at the first or any continued hearing, it shall be the opinion of the board of supervisors that the work has been completed and done according to the contract, said board shall by a resolution, to be entered upon its minutes, so declare, and that the work is accepted, and stating the aggregate amount for which bonds shall be issued, and stating the amount of the incidental costs and expenses of the work and the

proceeding which are charged against and to be paid by the contractor.

Sec. 12. The clerk of the board of supervisors shall transmit to the county treasurer of the county an attested copy of the final order mentioned in section 11 of this act, and upon receipt of the same the county treasurer shall proceed to issue bonds to the amount in the aggregate of their principal as the same is stated in the attested copy of said final order. A bond may be issued in any amount, provided that the aggregate of the bond or bonds made payable in any one year is the one proper part of the whole principal of the bond issue, as specified in such attested copy of said final order, and so that the interest thereon be made payable on the second days of January and July. The said bonds may, in form, and shall, in substance, be as indicated following, to-wit:

Road District Improvement Bond

Road District Improvement No. _____

County of _____, State of California.

\$_____ No. _____

Under and by virtue of the Road District Improvement Act of 1907, an act of the legislature of the State of California (here may be inserted any further designation desired) the county of _____, State of California, will, out of the fund hereinafter designated, at the office of the treasurer of said county, on the _____ day of _____, 191—, pay to the bearer the sum of _____ dollars, in gold coin of the United States of America, with interest thereon in like gold coin, at the rate of _____ per cent per annum, payable as hereinafter specified.

This bond is payable out of Road District Improvement Fund No. _____ exclusively, as the same appears on the books of the treasurer of said

county, and neither said county nor any officer thereof is holden for its payment otherwise.

The interest is payable semi-annually, to-wit: on the second days of January and July in each year hereafter, upon presentation of the coupons therefor, the first of which coupons is, however, for the interest from date to the next following second day.

The principal hereof may be paid at any time, upon notice of such redemption having been published by the treasurer of said county, once in some newspaper of general circulation, published in said county, and interest on all unpaid principal sums covered by such notice shall cease one month after such publication.

At said county of _____, the _____ day of _____, in the year one thousand nine hundred and _____

Insert title of presiding officer of the board of supervisors.

Treasurer of the (name of county).

Said bonds shall be signed by the presiding officer of the board of supervisors and the treasurer of the county, and so signed shall be binding according to the term thereof as prescribed in said form. The interest coupon shall be in form as said treasurer may devise, subject to the provisions of this act, and the determinations made by the board of supervisors, and their signatures by him shall be sufficient. Said bonds shall be delivered by said treasurer to said contractor or to his order, assignee or lawful representative.

The board of supervisors is hereby vested with power to determine the number of years, not to exceed twenty, within which the aggregate principal of bonds to be issued under this act shall be

paid and discharged, and to fix the rate of interest, not to exceed seven per centum per annum, to be paid thereon, and it shall be a sufficient determination and fixing of the same to set forth in the resolution of intention that bonds will issue for the work in any terms that will fairly indicate such time and such rate and the fractional part of the principal to be paid each year, which part shall be the same for each of the years covered by the bond issue.

The interest payments on said bonds shall be payable semi-annually on the second days of January and July, and interest and principal at the office of the county treasurer, and as prescribed aforesaid for said bonds, in gold coin of the United States of America, and the whole or any part of such bonds redeemed upon notice as indicated in the form of said bonds hereinbefore set forth; but it shall not be necessary either in the resolution of intention or otherwise to set forth or determine the days of the month on which payments of interest are to be made, nor that payments shall be made in such gold coin, nor that payments shall be at such treasurer's office, nor that such bonds are redeemable in the manner indicated in such form for said bonds hereinbefore set forth; but all persons are charged with notice of the contents of this section, especially in the aforesaid particulars.

Sec. 13. A special fund to be named "Road District Improvement Fund No. ——" (the number to be that of the district) for the discharge and payment of such bonds and the interest thereon shall be constituted as follows, to wit: There shall be each year, at the time of the levy of the general levy of state and county taxes, to be levied against and upon all the land within said Road Improvement District No. —— (being the district established and as bounded in the order ordering the work to be done) a special assessment tax in

an amount clearly sufficient, together with any moneys which are or may be in said fund, to pay all the principal which has or will become due and all interest which has or will become payable, on said bonds, before the proceeds of another tax levy at the time of the general tax levy for state and county purposes can be made available for the payment of such bonds.

The board of supervisors shall, from the general road funds of the county transfer to said "Road District Improvement Fund No. _____" such amount as, in the judgment of said board, is a fair proportion of the general road fund of the supervisorial district in which said Road Improvement District No. — is situated.

In any event it shall be the duty of the board of supervisors to levy a sufficient special assessment tax upon all the land within said Road Improvement District No. —, to maintain such Road District Improvement Fund No. — sufficient to pay the principal and interest of said bonds as the same shall become payable. And the board of supervisors is hereby vested with power to do all and singular the things which in this section aforesaid it is declared shall be done.

Sec. 14. The board of supervisors is hereby vested with power as follows, to-wit:

1. To appoint, at any stage of the proceeding before calling for proposals or bids, any competent person, to be designated "engineer of work," for the purpose of doing and furnishing all the civil engineering work or services, surveying, and similar work and services necessary to the proper doing of the work. His compensation or at least the rate or some basis for computing the same shall be fixed and stated in the order of his appointment, which said order shall be entered in the minutes of the board.

2. To appoint, in and as a part of the resolution of intention, any competent person to be designated "superintendent of work," whose duty it shall be to perform the services for him in this act prescribed or indicated, and for the general actual supervision of the work. His compensation shall be fixed at the time and in the resolution of his appointment at a per diem not to exceed five dollars for all time actually devoted to the work.

3. To designate any competent person for the purpose of preparing and furnishing the specifications required by section 2 of this act, and with such designation to fix his compensation, or some basis for computing the same.

4. To appoint and designate other competent persons in the places respectively of the persons so originally appointed, with compensation, so far as practicable, proportionately the same as fixed for the original appointee.

No part of such or any compensation for said officers or employees, or for services rendered by any of them shall be a charge against the county or any officer thereof, except that for furnishing specifications and posting the resolution of intention the county shall be liable in case the proceedings cease or are abandoned, before the award of the contract.

No member of the board of supervisors shall be eligible to appointment to any office, position or employment under this act. [Became a law, under constitutional provision, without Governor's approval, March 27, 1911.]

Sec. 15. All the costs and expenses of the proceeding, inclusive especially of the compensation of the person appointed to furnish the specifications, of the superintendent of work, of the engineer of work, of the cost of all publications under this act required to be made, shall be chargeable to and

paid by the contractor, and they shall have been paid before delivery of the bonds shall be made by the county treasurer; provided, however, that the county treasurer may make delivery of such bonds, if there be deposited with him, subject to the order of the board of supervisors, money to the amount of the costs and expenses chargeable to the contractor as the same is stated in the attested order of the board of supervisors, provided for in section 12 of this act. The contractor and all persons claiming under him any interest in said bonds, whether of ownership, lien or otherwise, shall be deemed to have notice of the contents of this section.

Sec. 16. If publication in the newspaper designated in the resolution of intention become impossible for the reason that such newspaper has ceased to be published or for any like reason, which renders publication therein impossible, the board of supervisors may, by a resolution to be entered in its minutes, and stating the facts, designate another newspaper for each required publication as occasion therefor arises.

Sec. 17. All papers in a proceeding under this act (save such as thereunder, may be returnable to owners) shall be filed with the clerk of the board of supervisors, and by him kept together in a package appropriately labeled. Whenever in this act the term "clerk of the board of supervisors" is employed, it shall be deemed to include one who is, ex-officio, such, and it shall be immaterial that he designate himself as county clerk where the county clerk is ex-officio clerk of the board of supervisors, nor shall it be material that his act be by deputy.

Sec. 18. This act shall be known as the "Road District Improvement Act of 1907," and by such designation shall be sufficiently identified in any proceeding thereunder, and whenever in the resolution

of intention it shall be set forth or recited that the proceeding is under the "Road District Improvement Act of 1907," this act shall be construed as the paramount statute for such proceeding, independently of, and alternatively for, other statutes for the improvement of public ways not within incorporated cities and towns.

An act to regulate the operation of motor vehicles on public highways, and making an appropriation for the purpose of carrying out the objects of this act.

[Approved March 22, 1905; Stats. 1905, p. 816.
Amended March 23, 1907; Stats. 1907, p. 914.]

- § 1. Sub. 1. Terms defined.
- § 2. Sub. 1. Owner to file statement.
 - 2. Registration of vehicle.
 - 3. Registration seal.
 - 4. If vehicle has been previously registered.
 - 5. Number to be displayed on vehicle.
 - 6. Each style to be registered.
 - 7. Fictitious seal or number.
 - 8. Vehicle not to be operated without seal.
 - 9. Not applicable to vehicles of non-residents.
- § 3. Sub. 1. Rate of speed.
 - 2. Approaching or crossing bridge, etc.
 - 3. Warning of approach to be given.
 - 4. When ought to be brought to stop.
 - 5. In case of accident.
 - 6. Highway may be set aside for speed tests.
- § 4. Sub. 1. Duty of operator on meeting team, etc.
 - 2. Brakes and horn to be provided. Lamps.
 - 3. Local ordinances not to be passed. Speed regulations. Signs on public streets.
 - 4. Rate of speed in public parks.
 - 5. Civil suits for injuries.
- § 5. Sub. 1. Chauffeur, statement filed by.
 - 2. Registration of chauffeur.
 - 3. Registration seal of.
 - 4. Seal not to be worn by another.

- § 6. Violation of act a misdemeanor.
- § 7. Fees received by Secretary of State, disposition of.
- § 8. Appropriation.
- § 8a. Employees of motor vehicle department.

Section 1. Subdivision 1. The words and phrases used in this act shall, for the purposes of this act, unless the same be contrary to or inconsistent with the context, be construed as follows: (1) "motor vehicle" shall include all vehicles propelled by any power other than muscular power, provided that nothing herein contained shall, except the provisions of subdivisions three, four and five of section three and subdivision one of section four of this act, apply to motorcycles, motor bicycles, traction engines or road rollers; (2) "public highways" shall include any highway, county road, state road, public street, avenue, alley, park, parkway, driveway or public place in any county, or incorporated city and county, city or town; (3) "closely built up" shall mean (a) the territory of any county or incorporated city and county, city or town contiguous to a public highway which is at that point built up with structures devoted to business, (b) the territory of any county or incorporated city and county, city or town contiguous to a public highway not devoted to business, where for not less than one quarter of a mile the dwelling houses on such highway average less than one hundred feet apart, provided that the local authorities having charge of such highway shall have placed conspicuously thereon at both ends of such closely built up section signs of sufficient size to be easily readable by a person using the highway, bearing the words "Slow down to.....miles" inserting in the blank space the number of miles to which the speed is to be reduced, and also an arrow pointing in the direction where the speed is to be reduced; (4) "local authorities" shall include all boards of supervisors, trustees or councils, committees and other public officials of coun-

ties, or incorporated cities and counties, cities or towns; "chauffeur" shall mean any person operating a motor vehicle as mechanic, employee or for hire.

Sec. 2, Subdivision 1. Every owner of a motor vehicle shall, for every such vehicle owned by him, file in the office of the secretary of state a statement of his name and address, with a brief description of the vehicle to be registered, including the name of the maker, factory number, style of vehicle and motor power, on a blank to be prepared and furnished by such secretary of state for that purpose. The filing fee shall be two dollars.

Subdivision 2. The secretary of state shall thereupon file such statement in his office, register such motor vehicle in a book or index kept for the purpose, and assign it a distinctive number.

Subdivision 3. The secretary of state shall forthwith on such registration, and without other fee, issue and deliver to the owner of such motor vehicle a seal of aluminum or other suitable metal, which shall be circular in form, approximately two inches in diameter, and have stamped thereon the words "Registered motor vehicle, No. —, State of California," with the registration number inserted therein; which seal shall thereafter at all times be conspicuously displayed on the motor vehicle, to which such number has been assigned.

Subdivision 4. If the vehicle has been previously registered, the certificate issued thereon shall be returned to the secretary of state, and in lieu thereof such secretary shall issue to said owner a registration seal containing the number of such previous registration upon payment of a fee of one dollar. Upon the sale of a motor vehicle, the vendor, except a manufacturer or dealer, shall within ten days return to the secretary of state the registration seal affixed to such vehicle.

Subdivision 5. Every motor vehicle shall also at all times have the number assigned to it displayed on the back of such vehicle in such a manner as to be plainly visible, the numbers to be in Arabic numerals, black on white background, each not less than three inches in height, and each stroke to be of a width not less than half an inch, and also as a part of such number of the abbreviated name of the state in black on white ground, such letters to be not less than one inch in height.

Subdivision 6. A manufacturer of or dealer in motor vehicles shall register one vehicle of each style or type manufactured or dealt in by him, and be entitled to as many duplicate registration seals for each type or style so manufactured or dealt in as he may desire on payment of an additional fee of fifty cents for each duplicate seal. If a registration seal and the corresponding number shall thereafter be affixed to and displayed on every vehicle of such type or style as in this section provided, while such vehicle is being operated on the public highways, it shall be deemed a sufficient compliance with subdivisions one, three, five and eight of this section, until such vehicle shall be sold or let for hire. Nothing in this subdivision shall be construed to apply to a motor vehicle employed by a manufacturer or dealer for private use or for hire.

Subdivision 7. No motor vehicle shall be used or operated upon the public highways after this act takes effect which shall display thereon a registration seal or number belonging to any other vehicle, or a fictitious registration seal or number.

Subdivision 8. No motor vehicle shall be used or operated on the public highways after this act takes effect, unless the owner shall have complied in all respects with this section, except that any person purchasing a motor vehicle from the manufacturer, dealer or other person after this act goes into effect shall be allowed to operate such motor

vehicle upon the public highways for a period of five days after the purchase and delivery thereof, provided that during such period such motor vehicle shall bear the registration number and seal of the previous owner under which it was operated or might have been operated by him.

Subdivision 9. The provisions of this section shall not apply to motor vehicles owned by non-residents of this state and only temporarily within this state, provided the owners thereof have complied with any law requiring the registration of owners of motor vehicles in force in the state, territory or federal district of their residence, and the registration number showing the initial of such state, territory or federal district shall be displayed on such vehicle substantially as in this section provided. [Amendment approved March 23, 1907; Stats. 1907, p. 914.]

Section 3. Subdivision 1. No person shall operate a motor vehicle on a public highway at a rate of speed greater than is reasonable and proper, having regard to the traffic and use of the highway, or so as to endanger the life or limb of any person, or the safety of any property; or in any event on any public highway where the territory contiguous thereto is closely built up, at a greater rate than one mile in six minutes, or elsewhere in any incorporated city and county, city or town at a greater rate than one mile in four minutes, or elsewhere outside of any incorporated city and county, city or town, at a greater rate than one mile in three minutes; subject, however, to the other provisions of this act.

Subdivision 2. Upon approaching a bridge, dam, sharp curve, or steep descent, and also in traversing such bridge, dam, curve or descent, a person operating a motor vehicle shall have it under control and operate it at a rate of speed not exceeding one mile in fifteen minutes, and upon approaching

a crossing of intersecting highways at a speed not greater than is reasonable and proper, having regard to the traffic then on such highway and the safety of the public.

Subdivision 3. Upon approaching a person walking in the roadway of a public highway, or a horse or horses, or other live stock, being ridden, led or driven thereon, a person operating a motor vehicle shall give reasonable warning of its approach, and use every reasonable precaution to insure the safety of such person or animal, and, in the case of horses or other live stock, to prevent frightening the same.

Subdivision 4. A person operating a motor vehicle shall, at request or on signal by putting up the hand, from a person riding, leading or driving a restive horse or horses, or other live stock, bring such motor vehicle immediately to a stop, and, if traveling in the opposite direction, remain stationary so long as may be reasonable to allow such horse or animal to pass, and, if traveling in the same direction, use reasonable caution in thereafter passing such horse or animal; provided, that, in case such horse or animal appears badly frightened or the person operating such motor vehicle is requested to do so, such person shall cause the motor of such vehicle to cease running so long as shall be reasonably necessary to prevent accident and insure safety to others.

Subdivision 5. In case of accident or injury to a person or property on the public highways, due to the operation thereon of a motor vehicle, the person operating such vehicle shall stop, and, upon request of a person injured, or any person present, give such person his name and address, and, if not the owner, the name and address of such owner.

Subdivision 6. Local authorities may, notwithstanding the other provisions of this section, set

aside for a given time a specified public highway for speed tests or races, to be conducted under proper restrictions for the safety of the public. [Amendments approved March 23, 1907; Stats. 1907, p. 914.]

Sec. 4. Subdivision 1. Whenever a person operating a motor vehicle shall meet on a public highway any other person riding or driving a horse or horses or other live stock, or any other vehicles, the person so operating such motor vehicle shall reasonably turn the same to the right of the center of such highway so as to pass without interference. Any such person so operating a motor vehicle, shall, on overtaking any such horse, live stock or other vehicle, pass on the left side thereof, and the rider or driver of such horse, live stock or other vehicle shall, as soon as practicable, turn to the right so as to allow free passage on the left. Any such person so operating a motor vehicle shall, at the intersection of public highways, keep to the right of the intersection of the centers of such highways when turning to the right and pass to the right of such intersection when turning to the left. Nothing in this subdivision shall, however, be construed as limiting the meaning or effect of the provisions of section three of this act.

Subdivision 2. Every motor vehicle, while in use on a public highway, shall be provided with good and efficient brakes, and also with suitable bell, horn or other signal, and be so constructed as to exhibit, during the period from one hour after sunset to one hour before sunrise, two lamps showing white lights visible within a reasonable distance in the direction towards which such vehicle is proceeding, showing the registered number of the vehicle in separate Arabic numerals, not less than one inch in height and each stroke to be not less than one.

quarter of an inch in width, and also a red light visible in the reverse direction.

Subdivision 3. Subject to the provisions of this act, local authorities shall have no power to pass, enforce or maintain any ordinance, rule or regulation requiring of any owner or operator of a motor vehicle any license or permit to use the public highways, or excluding or prohibiting any motor vehicle whose owner has complied with section two of this act from the free use of such highways, except such driveway, speedway or road as has been or may be expressly set apart by law for the exclusive use of horses and light carriages, or except as herein provided, in any way affecting the registration or numbering of motor vehicles or prescribing a slower rate of speed than herein specified at which such vehicles may be operated, or the use of the public highways, contrary or inconsistent with the provisions of this act; and all such ordinances, rules or regulations now in force are hereby declared to be of no validity or effect; provided, however, that the local authorities of incorporated cities and counties, cities and towns may limit by ordinance, rule or regulation hereafter adopted the speed of motor vehicles on the public highways, on condition that such ordinance, rule or regulation shall also fix the same speed limitation for all other vehicles, such speed limitation not to be in any case less than one mile in six minutes, and on further condition that such incorporated city and county, city or town, shall also have placed conspicuously on each main public highway where the boundary of such municipality crosses the same, and on every main highway where the rate of speed changes signs of sufficient size to be easily readable by persons using the highway, bearing the words "slow down to — miles" (the rate being inserted), and also an arrow pointing in the direction where the speed is to be reduced or changed, and also on further condition that such

ordinance, rule or regulation shall fix the penalties for violation thereof similar to and no greater than those fixed by such local authorities for violation of speed limitation by any other vehicles than motor vehicles, which penalties shall during the existence of the ordinance, rule or regulation supersede those specified in section six of this act, and provided further that nothing in this act contained shall be construed as limiting the power of local authorities to make, enforce and maintain further ordinances, rules or regulations, affecting motor vehicles which are offered to the public for hire.

Subdivision 4. Local authorities may, notwithstanding the provisions of this act, make, enforce and maintain such reasonable ordinances, rules or regulations concerning the speed at which motor vehicles may be operated in any public park or parkways, but in that event, must be signs at each entrance of such park and along such parkway, conspicuously indicate the rate of speed permitted or required, and may exclude motor vehicles from any cemetery or grounds used for burial of the dead.

Subdivision 5. Nothing in this act shall be construed to curtail or abridge the right of any person to prosecute a civil suit for damages by reason of injuries to person or property resulting from the negligent use of the highways by a motor vehicle or its owner or his employee or agent. [Amendment approved March 23, 1907; Stats. 1907, p. 914.]

Sec. 5. Subdivision 1. Every person hereafter desiring to operate a motor vehicle as a chauffeur shall file in the office of the secretary of state, on a blank to be supplied by such secretary, a statement which shall include his name and address and the trade name and motive power of the motor vehicle or vehicles he is able to operate, and shall pay a registration fee of two dollars.

Subdivision 2. The secretary of state shall thereupon file such statement in his office, register such

chauffeur in a book or index to be kept for that purpose, and assign him a number.

Subdivision 3. The secretary of state shall forthwith, upon such registration and without other fee, insure and deliver to such chauffeur a badge of aluminum or other suitable metal which shall be oval in form, and the greater diameter of which shall not be more than two inches, and such badge shall have stamped thereon the words: "Registered chauffeur, No., State of California," with the registration number inserted therein; which badge shall thereafter be worn by such chauffeur pinned upon his clothing in a conspicuous place at all times while he is operating a motor vehicle upon the public highways.

Subdivision 4. No chauffeur, having registered as herein provided, shall voluntarily permit any other person to wear his badge, nor shall any person while operating a motor vehicle wear any badge belonging to another person, or a fictitious badge.

Subdivision 5. No person shall operate a motor vehicle as a chauffeur upon the public highways after thirty days after this act takes effect, unless such person shall have complied in all respects with the requirements of this section.

Sec. 6. Any person violating any of the provisions of this act shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punishable by a fine not exceeding one hundred dollars or by imprisonment not exceeding thirty days, or both, for the first offense; and punishable by a fine of not less than fifty dollars nor more than one hundred dollars, or imprisonment not exceeding thirty days, or both, for a second offense; and punishable by a fine of not less than one hundred dollars nor more than two hundred and fifty dollars, or imprisonment not exceeding thirty days, or both, for a third or subsequent offense. [Amendment approved March 23, 1907; Stats. 1907, p. 914.]

Sec. 7. The amount of fees received by the secretary of state, as in this act provided, shall be paid into the state treasury, to be paid into the general fund of the state.

Sec. 8. There is hereby appropriated out of any money in the state treasury not otherwise appropriated, the sum of twenty thousand dollars (\$20,000.00), for the purpose of carrying out the objects of this act, to be used by the secretary of state in the employment of the necessary clerk or clerks; the purchase of the necessary stationery, books, and postage; for the necessary incidental expenses; for the purchase of the necessary seals and badges; for printing, ruling, binding, and all other work performed and materials used by the state printing office, to be used during the balance of the fifty-sixth, and during the fifty-seventh and fifty-eighth fiscal years. The state controller is hereby directed to draw his warrant for any claim against said sum, the same having been approved by the state board of examiners, and the state treasurer is hereby directed to pay the same.

Sec. 8a. For the purpose of carrying out the purposes of this act, and the act of which this act is amendatory, the secretary of state may appoint a chief clerk and cashier of the motor vehicle department, in the office of the secretary of state, and one other clerk. [New section approved March 23, 1907; Stats. 1907, p. 914.]

Sec. 9. All acts and parts of acts inconsistent herewith or contrary hereto, are, so far as they are inconsistent or contrary, hereby repealed.

Sec. 10. This action shall take effect immediately.

An act to enable adjoining counties to enter into agreements for the construction, rebuilding, replacing, or relocation of bridges over navigable

waters between said counties, jointly with other persons or corporations.

[Approved March 23, 1907; Stats. 1907, p. 982.]

Section 1. In case it shall appear to the boards of supervisors of two adjoining counties that any bridge shall be necessary for highway purposes, over any navigable river, stream, or inlet of the sea, between said counties, or if any bridge existing thereover and used wholly or in part for highway purposes (whether the same is owned by said counties or either of them, or used by them or either of them by agreement with the owner thereof), shall, in the interests of commerce, or by reason of such bridge being out of repair or deteriorated beyond reasonable repair, require reconstruction, or rebuilding, or replacing by a new structure, or its location to be changed to such place on such navigable river, stream, or inlet of the sea, as may be better suited to its use, or to the use of such navigable water, or may tend to prevent obstruction to commerce thereon, the boards of supervisors of such counties may, in their discretion, enter into an agreement with any person or corporation for the building of a joint bridge, or the reconstruction, or rebuilding, or replacing by a new structure of such existing bridge, or the rebuilding thereof at another location, and the joint use of the same thereafter by such person or corporation, and said counties or the public, and for apportioning the expense of such joint reconstructed or relocated bridge between said counties and each of them and such person or corporation jointly using or to use the same, and to provide for the construction and use thereof in such manner and upon such terms and conditions as may be agreed upon between such counties and such person or corporation. In such case none of the provisions of subdivision 4 of section 25 of an act entitled "An act to establish a uniform system of county and township government," approved April 1, 1897,

shall be applicable thereto; provided, that in no event shall either county agree to contribute more than one-third of the cost of construction, reconstruction, relocation, or repair of any such joint bridge.

Sec. 2. This act shall take effect immediately.

[Note.—See also act of February 25, 1897, p. 135, ante.]

An Act to provide for the protection and preservation of shade and ornamental trees growing and to be grown upon the roads, highways, grounds and property within the State of California; and for the planting, care, protection and preservation of shade and ornamental trees, hedges, lawns, shrubs and flowers growing and to be grown in and upon such roads, highways, grounds and property; and to create county boards of forestry for such purposes; and to prescribe the duties and powers of such boards; and to authorize such boards to appoint county foresters; and to prescribe the duties and fix the compensation of county forester, and to empower such boards to enforce all laws and adopt and enforce any and all lawful and reasonable rules for the protection, planting, regulation, preservation, care and control of such shade and ornamental trees, hedges, lawns, shrubs and flowers.

[Approved April 28, 1909; Stats. 1909, p. 1129.]

- § 1. County Board of Forestry.
- § 2. Appointment.
- § 3. Term of office.
- § 4. Organization.
- § 5. Appointment of Forester.
- § 6. Power and duty of.
- § 7. Power of Board.
- § 8. Control of trees.
- § 9. Violation.
- § 10. Moneys received as penalties.
- § 11. Provision for expenses.

Section 1. The board of supervisors in each and every county or city and county of the State of California may, in its discretion, appoint a county board of forestry, who shall serve without compensation, and who shall have exclusive charge and control of all shade and ornamental trees, hedges, lawns, shrubs and flowers growing or to be grown upon the public roads, highways, grounds and property within its respective county.

Sec. 2. Whenever the board of supervisors of any county or city and county in this state shall, by resolution or ordinance, elect to avail itself of the provisions of this act, such board shall, within two months thereafter, appoint five suitable and competent persons, one from each supervisorial district of such county or city and county, as a county board of forestry in and for such county, who shall serve as such without compensation.

Sec. 3. The term of office of such county board of forestry shall be four years; provided, however, that the persons first appointed shall so classify themselves by lot that two of their number shall retire from office at the end of two years, two at the end of three years and one at the end of four years. If any vacancy occurs in the office, such vacancy shall be filled, for the unexpired term, by the board of supervisors.

Sec. 4. Within ten days after notice of their appointment, the members of said county board of forestry shall organize by the election of one of their members as chairman and adopt suitable rules for their government.

Sec. 5. When organized, said county board of forestry, shall appoint a suitable and competent person as county forester to serve as such during the pleasure of the board, prescribe his duties and fix his compensation, which, however, shall not exceed one hundred and fifty dollars per month.

Sec. 6. Such forester, when appointed, shall

execute a bond to said board, in the sum of \$1000, for the faithful performance of his duties. He shall act as its secretary and perform such other duties as said board shall prescribe. Said forester shall have power and it shall be his duty to enforce the provisions of this act and all lawful orders of said board and he shall be and hereby is vested with all the powers of a peace officer to make arrests for the violation of any of the provisions of this act.

Sec. 7. Every county board of forestry appointed under the provisions of this act shall, within their respective counties, have exclusive power over and jurisdiction to decide upon the variety, kind and character of trees, hedges and shrubs that shall be planted upon said roads, highways, grounds and property; and to determine all questions respecting the pruning, cutting and removal of any trees, hedges and shrubs now growing and to grow thereon and the necessity therefor and the extent of and the manner in which said work shall be done; and to enforce, carry out and effectuate the provisions of this act; provided, however, that said board, in the exercise of its powers and the performance of its duties hereunder, shall not interfere with the jurisdiction of the board of supervisors over the roads, highways, grounds and property in the improvement, care and general control thereof.

Sec. 8. It shall be unlawful for any person or corporation (except said county board of forestry) in any county or city and county where a county board of forestry has been created and appointed under the provisions of this act, to trim, prune, cut, deface, destroy or remove any shade or ornamental tree, hedge or shrub growing or to grow upon any such road, highway, ground or property or to paint, place, attach to or put upon any such trees, hedges or shrubs any sign, notice, advertisement or advertising device without the consent in writing of said board first obtained, or to plant any tree, hedge or shrub on any such road, highway, ground or property without such written consent.

Sec. 9. Every person who shall violate any of the provisions of section 5 of this act, shall be guilty of a misdemeanor.

Sec. 10. All moneys received as penalties for the violation of the provisions of this act, shall be paid into the county treasury to the credit of the county board of forestry fund, which fund is hereby created, and the moneys thereof hereby appropriated for the expenses of said board in the carrying out of provisions of this act and the policy and purposes herein provided.

Sec. 11. Boards of supervisors, whenever the provisions of this act are availed of, shall appropriate money for the use of said county board of forestry sufficient to pay the compensation of said county forester and for the necessary expenses of said county board of forestry.

Sec. 12. All acts or parts of acts inconsistent with the provisions of this act are hereby repealed.

Sec. 13. This act shall take effect immediately.

An Act to allow unincorporated towns and villages to establish, equip and maintain systems of street lights on public highways; to provide for the formation, government and operation of highway lighting districts; the calling and holding of elections in such districts; the assessment, collection, custody and disbursement of taxes therein; and the creation of ex officio boards of supervisors.

[Approved March 20, 1909; Stats. 1909, p. 551; amended 1911, Stats. 1911, chap. 260.]

- § 1. Definitions.
- § 2. Street lights.
- § 3. Petition for lighting district.
- § 4. Election to determine proposition.
- § 5. Conduct of election.
- § 6. Who entitled to vote.
- § 7. Canvass of vote.
- § 8. Duty of Supervisors.

- § 9. Same.
- §10. Evidence of validity.
- §11. Supervisors of lighting districts. Duties of
- §12. Prior lights, maintenance.
- §13. Authority to erect poles.
- §14. Estimate for tax levy.
- §15. Tax levy.
- §16. Disposition of levy.
- §17. Designation of district.
- §18. Dissolution of district. Outstanding indebtedness.

Section 1. The words and phrases used in this act, shall, for the purposes of this act; unless the same be contrary to or inconsistent with the context; be construed as follows:

(1) "Public Highways," shall include any highway, county road, state road, public street, avenue, alley, park, parkway, driveway, or public place, in any county, or unincorporated town or village dedicated to the public and generally used for traffic by the public.

(2) "Street Lights," or "Street Illumination," shall include any system of illumination by means of street lights using gas, electricity, or other means of illuminant deemed feasible; such lights to be set upon poles, or suspended in the air.

Sec. 2. Any unincorporated town or village of this state may establish a highway lighting district for the purpose of installing and maintaining a system of street lights on public highways, for the better protection of its residents; in accordance with the provisions of this act.

Sec. 3. Upon the application, by petition, of twenty-five or more, taxpayers and residents of said town or village, to the board of supervisors of the county in which the said town or village is situated, praying for the formation of a public highway lighting district, and setting forth the boundaries of the said proposed district; the said board of supervisors must, within ten days after receiving said petition, by resolution, order that an election be held in the said proposed district for the determination of the question, and shall appoint three quali-

fied electors thereof to conduct said election; which must be held within forty days from the date of the order.

Sec. 4. Said election shall be called by posting notice thereof in three of the most public places in said proposed lighting district, and by publication in a daily or weekly paper therein, if there be one, at least once a week for not less than fifteen days. Said notices must specify the time, place and purposes of said election, give the boundaries of the said proposed lighting district; and the hours during which the polls will be kept open; provided that in districts with a population of ten thousand or over, the polls must be opened at eight o'clock a. m., and kept open until seven o'clock p. m., and in districts where the population is less than ten thousand, the polls must not be opened before one o'clock p. m., and must be kept open not less than six hours.

Sec. 5. Said election shall be conducted in accordance with the general election laws of this state, where applicable, without reference to form of ballot or manner of voting, except that the ballots shall contain the words, "For Lighting District," and the voter shall write or print after said words on his ballot, the word "Yes" or the word "No."

Sec. 6. Every qualified elector, resident within the proposed district for the period requisite to enable him to vote at a general election, shall be entitled to vote at the election above provided for.

Sec. 7. It shall be the duty of the election officers to publicly canvass the votes immediately after the close of the election, and to report the result of said election to the board of supervisors within five days subsequent to the holding thereof.

Sec. 8. If a majority of the votes cast at said election shall be in favor of a lighting district, the said board of supervisors may, by resolution, establish said lighting district.

Sec. 9. If a majority of the votes cast shall be against the lighting district, the board of supervisors, shall by order, so declare; no other proceedings shall be taken in relation thereto until the expiration of one year from the date of presentation of the petition.

Sec. 10. The fact of the presentation of the petition, and the order establishing the lighting district, shall be entered in the minutes of the board of supervisors and shall be conclusive evidence of the due presentation of a proper petition, and that each of the petitioners was, at the time of signature and presentation of the petition, a taxpayer and resident of the proposed district, and of the fact and regularity of all prior proceedings of every kind and nature provided for by this act, and of the existence and validity of the district.

Sec. 11. The board of supervisors of the county wherein lighting districts have been established under the provisions of this act, shall be and they are hereby designated as and empowered to act as ex-officio the board of supervisors of each and all of such lighting districts which may hereafter be established within such county under the provisions of this act; serving without compensation; and said boards of supervisors shall be authorized and they are hereby empowered, and it shall be their duty:

First. To make all rules, regulations and laws necessary for the administration, operation and maintenance of the lighting districts situated within their county.

Second. To supervise, and plan a system of street illumination for any and all lighting districts within their county, and to determine and decide upon the kind and manner of illuminant most feasible for the district.

Third. To indicate the placing and installation of the lights and any and all subsequent additional lights.

Fourth. To receive bids, award and make contracts with lighting companies to the very best advantage of the district, for the installation and maintenance of poles, wires, lights and other accessories; and for the supplying of electric current, gas or such other illuminant as may be determined upon; and for any and all other things that may be necessary to carry out the full meaning and provisions of this act.

Fifth. To determine the number of employees, if any, necessary to properly care for and maintain the lights; to prescribe their duties and fix their compensation, which said employees shall hold their positions at the pleasure of the board.

Sixth. Upon the application, by petition, of twenty-five or more taxpayers and residents of such lighting district, asking for the installation and maintenance of additional lights, which said petition must be filed on or before the first day of September in any year; to immediately estimate the cost of installing and maintaining such additional lights, and to include in the tax levy for the ensuing fiscal year a tax upon the taxable property within such lighting district, at the equalized value thereof for that year, sufficient to pay the cost of installing and maintaining such additional lights; after which to proceed with the installation of such additional lights.

Seventh. To designate the hours for lighting such districts.

Eighth. To perform any and all other acts and things necessary or proper to carry out the provisions of this act.

Ninth. To, within ten days after the establishment of such district, proceed with carrying out the provisions of this act by advertising for bids for installing, caring for and maintaining the lights determined upon; and for supplying the district with all of the gas, electricity or such other illumi-

nant as has been determined upon, necessary for operating and maintaining any and all of the lights which have been already installed or which are to be installed within such district. The contract to be awarded to the lowest responsible bidder; provided, however, that the rates to be paid therefor must not exceed in any event the rates paid at that time by said county for highway lighting in other portions of said county. The rates to be paid must not be fixed for a term exceeding five years, and the board of supervisors must reserve the right to abrogate such contract whenever gas or electric current is offered to be supplied at two-thirds of such fixed contract price.

Sec. 12. If prior to the formation of a lighting district any lights have been maintained, by public subscription or paid for out of the district road funds, within any territory which subsequently forms itself into a lighting district under the provisions of this act; at the time of the establishment of such lighting district, or else at the time of expiration of any then existing contract for the maintenance of such lights; such lights and the future cost of maintaining and operating them shall be included in the estimate of the board of supervisors and shall thenceforth be maintained as a part of the lighting system of such lighting district.

Sec. 13. In granting authority to lay down pipes or to erect poles and string wires; and in contracting for gas or electric current, the board of supervisors must impose such restrictions and conditions, and provide for such locations of the various wires and lights, so as to work the least possible public or private inconvenience.

Sec. 14. On or before the first day of September in each and every year, the board of supervisors of any county wherein a lighting district has been established, shall make an estimate of the cost of conducting and maintaining such lighting district for the ensuing fiscal year, together with the cost of

installing and maintaining such additional lights as may have already been petitioned for by the residents of such lighting districts; and for the cost of any other things which may be necessary for carrying out the purposes of this act.

Sec. 15. When such estimate shall have been made, the board of supervisors of any county wherein a lighting district has been established, must, at the time of levying county taxes, levy a special tax upon all of the taxable property within the limits of such lighting district at the equalized value thereof, sufficient in amount to maintain the said lighting system, and to install any additional lights, or for any or all of the purposes of this act. When a lighting district is organized subsequent to the time of levying county taxes in any year, the board of supervisors may authorize the immediate installation of said lighting system in such district, and shall include in the levy of taxes for said lighting district for the ensuing fiscal year, a sum sufficient to pay the cost of the installation and maintenance of said lighting system in said district for that portion of the preceding fiscal year for which no levy of taxes was made in such year, for said purpose. [Amendment approved March 23, 1911.]

Sec. 16. The revenue derived from said tax, together with all other moneys acquired in whatsoever manner by the lighting district, shall be paid into the county treasury to the credit of the lighting fund of the district wherein said tax was collected, subject only to the order of the board of supervisors of said district, and to be by them expended only for and on behalf of the district wherein such money was collected.

Sec. 17. Every lighting district formed or established under the provisions of this act, must be designated by the name and under the style oflighting district, (using the name of the district), of.....county, (using the

name of the county in which such district is situated), and in that name the board of supervisors may make and award contracts, and may sue and be sued.

Sec. 18. The district may at any time be dissolved upon the vote of two thirds of the qualified electors thereof, at an election called by the board of supervisors, upon the question of dissolution. Upon a petition signed by fifty or more property owners and residents of such lighting district, asking for the dissolution of said district, the board of supervisors shall within thirty days after receiving said petition, by resolution, order that an election be held in the said district, for the determination of the question, and appoint three qualified electors thereof to conduct said election. Such election shall be called and conducted in the same manner as other elections of the district. Upon such dissolution, any property which may have been acquired by such lighting district shall vest in any incorporated town or city that may at such time be in occupation of a considerable portion of the territory of such lighting district; and if there be no such incorporated town or city, then such property shall be vested in the board of supervisors of the county wherein such lighting district is situated until the formation of such incorporated town or city; provided, however, that if at the time of the election to dissolve such district there be any outstanding indebtedness of such district, then, in such event, the vote to dissolve such district shall dissolve the same for all purposes excepting only the levy and collection of taxes for the payment of such outstanding indebtedness; and from the time such district is thus dissolved until such indebtedness is fully paid, satisfied and discharged, the legislative authority of such incorporated town or city, or the board of supervisors, if there be no such incorporated town or city, is hereby constituted ex-officio the board of supervisors of such district. And it is hereby made obligatory upon such board to levy

such taxes and perform such other acts as may be necessary in order to raise money for the payment of such indebtedness, as herein provided.

Sec. 19. All acts or parts of acts in conflict with this act are hereby repealed.

Sec. 20. This act shall take effect immediately.

An Act to regulate contracts on behalf of the state in relation to the erection, construction, alteration, repair or improvement of any state structure, building, road, or other state improvement of any kind and to repeal an act entitled "An act to regulate contracts on behalf of the state in relation to erections and buildings" approved March 28, 1876.

[Approved March 22, 1909; Stats. 1909, p. 656.]

- § 1. Control of construction.
- § 2. Contracts. Registration of prospective bidders.
- § 3. Award of contracts. Work by day's labor.
- § 4. Change of plans.
- § 5. Estimates must not be exceeded.
- § 6. Payments upon contracts.
- § 7. Injury to state a felony.
- § 8. Neglect to work under contract.
- § 9. Time limits in contracts. Bonds.
- § 10. Act of 1876 repealed.
- § 11. Causes of action continued.

Section 1. Whenever provision is made by law for the erection, construction, alteration, repair or improvement of any state structure, building, road or other state improvement of any kind excepting improvements on the property of the state on the water front of the city and county of San Francisco under the jurisdiction of the board of state harbor commissioners, the total cost of which will exceed the sum of one thousand dollars, the same shall be under the sole charge and direct control of the department of engineering. Said department, before entering into any contract for the erection, construction, alteration, repair or improvement of any state structure, building, road or other state

improvement of any kind shall prepare full, complete and accurate plans and specifications and estimates of cost, giving such directions for the same as will enable any competent mechanic or other builder to carry them out. The plans, specifications and estimates of cost must be approved by the advisory board of the department of engineering and the original draft thereof filed permanently in the office of the department of engineering before further action is taken.

Sec. 2. Said department of engineering shall, after the approval and filing of plans, specifications and estimates of cost, as in this act required, let such work by contract to the lowest responsible bidder or bidders upon public notice which shall be given as follows: Notice of such work must be published once a week for three consecutive weeks next preceding the day set for the receiving of bids in a paper having a general circulation in the county where the work is to be done. Provided, that in a record kept for that purpose the state engineer shall register any one desiring to be so registered for the purpose of becoming a prospective bidder upon state work, which registration shall be renewed on or before the beginning of each fiscal year, and whenever any state work is to be let by contract the state engineer shall cause a notice of the same to be mailed to each of the addresses so registered at least twenty-five days prior to the date set for the receiving of bids. In each case such notice must state the time and place for the receiving and opening of sealed bids and must also state that bids will be received for the entire work and also, where possible, for the performance of each of the following parts thereof, viz: first, for the masonry work, including all brick, stone, terra cotta, and concrete work, and all necessary excavations, and filling; second, for the iron work; third, for the carpenter, electric and glazing work; fourth, for the plastering work; fifth, for the plumbing and gas fitting work; sixth, for the heating

work; seventh, for the tinning, galvanized iron, and slating work; eighth, for the painting and graining work.

Sec. 3. On the day named in said public notice the department of engineering shall proceed to publicly open said sealed bids and shall award such contract or contracts to the lowest responsible bidder or bidders. No bid shall be considered unless accompanied with a bond of said bidder equal to ten per cent of his bid with sufficient sureties, conditioned that if said bid shall be accepted the party bidding will duly enter into a proper contract and faithfully perform his or their contract or contracts, in accordance with said bid, and the plans and specifications, which shall be and are hereby made a part of such contract or contracts. Such contract or contracts shall not be binding on the state until they are submitted to the attorney general, and by him found to be in accordance with the provisions of this act, and his certificate thereon to that effect made. If in the opinion of such department of engineering the acceptance of the lowest responsible bid or bids shall not be for the best interests of the state, it may be lawful for them to reject all bids and advertise for others in the manner aforesaid. But after the approval of the plans, specifications and estimates of costs by the advisory board of the department of engineering, if, in the opinion of such department of engineering the acceptance of any bid or bids shall not be for the best interests of the state, or if in the opinion of such department of engineering the acceptance of any further bids after the rejection of all bids submitted shall not be for the best interests of the state, it may be legal for them to direct that the erection, construction, alteration, repair, or improvement of any state structure, building, road, or other state improvement of any kind shall be done by day's labor, under the direction and control of the department of engineering. All contracts shall provide that such department of

engineering may, as hereinafter provided, and on the conditions stated, make any change in the plans and specifications. Certified copies of such contracts shall be filed with the controller and the board of examiners.

Sec. 4. After the contract or contracts are let no change shall be made to increase or diminish the cost of any contract in excess of five hundred dollars, except upon the approval of the advisory board of the department of engineering, and then only upon additional plans and specifications and estimates of cost being filed and approved, and amended contracts entered into and filed with the original contract.

Sec. 5. No contract or contracts shall be made exceeding in amount the estimates of costs approved by the advisory board of the department of engineering and no plans and specifications and estimates of cost including expense of advertising and inspection, shall be approved by said board requiring a greater expenditure of money than is appropriated for the specific purpose in the act authorizing the same.

Sec. 6. Payments upon contract shall be made as the department of engineering may prescribe upon estimates made and approved by the said department and audited by the board of examiners, but no payment shall be made in excess of ninety per cent of the percentage of actual work completed, to which has been added one half of the value of material delivered on the ground and unused. The department of engineering shall withhold not less than ten per cent of the contract price until final completion and acceptance of the work. The controller shall draw his warrants upon estimates so made and approved by the department of engineering and audited by the board of examiners and the state treasurer shall pay the same.

Sec. 7. Any member of the advisory board or person employed under the department of engineer-

ing who shall knowingly perform any official act to the injury of the state, or any contractor or his agent or employee who shall knowingly permit the violation of the contract of such contractor to the injury of the state, or any agent or employee of any contractor who shall have knowledge of any work being done in violation of contract and does not immediately notify the department of engineering or the inspector upon said work in regard to the same is guilty of a felony and, upon conviction thereof, shall be confined in the state prison for not less than one year nor more than five years, and be liable to the state for double the amount the state may have lost, or be liable to lose by reason thereof.

Sec. 8. Whenever, in the opinion of the department of engineering, the work under any contract made in pursuance of this act, is neglected by the contractor or contractors, or the same is not prosecuted with diligence and force specified or intended in and by the terms of the contract, it shall be lawful for such department of engineering to make a requisition upon such contractor or contractors for such additional specific force, or for such additional specific material, to be brought into the work under such contract, or to remove improper materials from the grounds; of which action of said department of engineering due notice in writing of not less than five days, shall be served upon such contractor, or his or their agent having charge of the work. If such contractor or contractors fail to comply with such requisition within fifteen days, it shall be lawful for said department of engineering to employ upon such work the additional force, or supply the materials so specifically required as aforesaid, or such part of either as they may deem proper, and to remove improper materials from the grounds; and it shall be the duty of such department of engineering to make separate estimates of all such additional force or materials so employed or supplied as aforesaid, and the amount so esti-

mated shall be charged against said contractor or contractors, and deducted from his or their next, or any subsequent, estimate; or the same, or any part thereof, not paid as aforesaid, may be recovered by action from such contractor or contractors, and their sureties.

Sec. 9. In all contracts made under the provisions of this act, there shall be a provision in regard to the time when the whole, or any specified portion, of the work contemplated in said contract shall be completed, and also providing that for each and every day the same shall be delayed beyond such time or times so named, the said contractor or contractors shall forfeit and pay to the state a sum of money to be fixed and determined in said contract, to be deducted from any payment or payments due, or to become due, to said contractor or contractors. Any such contract shall provide for the filing of a sufficient bond by the contractor to secure the payment of the claims of material men, mechanics, or laborers employed upon state work; a penalty of ten dollars per day to be forfeited to the state for each calendar day during which any laborer, workman or mechanic is employed or permitted to labor more than eight hours; a minimum compensation of not less than two dollars per day for labor; that no Chinese or Mongolian labor shall be employed and such other provisions as are now or may hereafter be provided by law.

Sec. 10. An act entitled "An act to regulate contracts on behalf of the state in relation to erections and buildings," approved March 23, 1876, and all acts amendatory thereto are hereby repealed, and all other acts or parts of acts in conflict with the provisions of this act are hereby repealed. Such repeal shall not affect, however, the operation of any other act heretofore passed, whether such act shall refer to the act hereby repealed or not, so as to exempt any public work from the provisions of this act.

Sec. 11. All of the provisions of this act shall be so construed as to preserve and keep in full force and effect all causes of action and actions for penalties which have already accrued or may hereafter accrue under any contract, heretofore entered into, against any contractor or person under and by virtue of the provisions of said act entitled "An act to regulate contracts on behalf of the state in relation to erections and buildings," approved March 23, 1876, which is repealed by virtue of this act, and all such actions and causes of action may be prosecuted to final judgment and all such penalties may be imposed and collected under the provisions of said act so repealed to the same extent and in the same manner as though said act had not been repealed.

Sec. 12. This act shall take effect immediately.

An Act authorizing the construction, acquisition, maintenance and control of a system of state highways in the State of California; specifying the work, fixing the payments to be made by counties for moneys expended therein; providing for the issuance and sale of state bonds to create a fund for the construction and acquisition of such system; creating a sinking fund for the payment of said bonds; and providing for the submission of this act to a vote of the people.

[Approved March 22, 1909, Stats. 1909, p. 647.]

- § 1. State highway system. Bonds for cost of construction.
- § 2. Interest coupons.
- § 3. Expenses preliminary to issue.
- § 4. Sale of bonds. State highway fund.
- § 5. Appropriation. Tax levy to secure bondholders. Sinking fund created.
- § 6. Bonds, how payable.
- § 7. Reports of Controller and Treasurer.
- § 8. Character of construction of highway. Refund to State by counties.

- § 9. When act to take effect.
- § 10. Submission of act to people.
- § 11. Canvass of returns.
- § 12. Publication of act.
- § 13. Name of act.

Section 1. A system of state highways in and for the State of California shall be constructed and acquired as and in the manner provided by law by the department of engineering of said state at a cost not to exceed eighteen million dollars. For the purpose of providing for the payment of the cost of the construction or acquisition of said system of said highways, the State of California is hereby authorized to incur an indebtedness in the manner provided by this act in the sum of eighteen million dollars.

Immediately after the issuance of the proclamation of the governor, as provided in section 11 of this act, the treasurer of the state shall prepare eighteen thousand suitable bonds of the State of California in the denomination of one thousand dollars each, to be numbered from 1 to 18,000 inclusive, and to bear the date of the third day of July, 1911. The total issue of said bonds shall not exceed the sum of eighteen million dollars and they shall bear interest at the rate of four per cent per annum from the date of issuance thereof. The said bonds and the interest thereon shall be payable in gold coin of the United States of the present standard of value at the office of the treasurer of said state at the times and in the manner following, to wit: The first four hundred of said bonds shall be due and payable on the third day of July, 1917, and four hundred of said bonds in consecutive numerical order shall be due and payable on the third day of July in each and every year thereafter until and including the third day of July, 1961. The interest accruing on all of said bonds that shall be sold shall be payable at the office of the treasurer of the state on the third day of January and the third day of July of each and every year after the

sale of the same. The interest on all bonds issued and sold shall cease on the day of their maturity and the said bonds so issued and sold shall on the day of their maturity be paid as herein provided and canceled by the treasurer of said state. All bonds remaining unsold shall, at the date of the maturity thereof, be by the treasurer of the state canceled and destroyed. All bonds issued pursuant to the provisions of this act shall be signed by the governor of this state, countersigned by the state controller and endorsed by the state treasurer, and the said bonds shall be so signed, countersigned and endorsed by the officers who are in office on the third day of July, 1911, and each of said bonds shall have the great seal of the State of California impressed thereon. The said bonds signed, countersigned, endorsed and sealed as herein provided, when sold, shall be and constitute a valid and binding obligation upon the State of California, though the sale thereof be made at a date or dates after the person so signing, countersigning and endorsing, or either of them, shall have ceased to be the incumbents of said office or offices.

Sec. 2. Appended to each of said bonds there shall be interest coupons so attached that the same may be detached without injury to or mutilation of said bond. The said coupons shall be consecutively numbered and shall bear the lithographed signature of the state treasurer who shall be in office on the third day of July, 1911. No interest shall be paid on any of said bonds for such time as may intervene between the date of said bond and the day of sale thereof, unless such accrued interest shall have been, by the purchaser of said bond, paid to the state at the time of such sale.

Sec. 3. There shall be provided in the general appropriation bill sufficient money to defray all expenses that shall be incurred by the state treasurer in the preparation of said bonds and in the advertising of the sale thereof, as in this act provided.

Sec. 4. When the bonds authorized by this act to be issued shall have been signed, countersigned, endorsed and sealed as in section one provided, the state treasurer shall sell the same in such parcels and numbers as the governor of the state shall direct, to the highest bidder for cash. The governor of the state shall issue to the state treasurer such direction immediately after being requested so to do, through and by a resolution duly adopted and passed by a majority vote of the advisory board of the department of engineering. Said resolution shall specify the amount of money which, in the judgment of said advisory board, shall be required at such time, and the governor of the state shall direct the state treasurer to sell such number of said bonds as may be required to raise said amount of money, and that said bonds shall be sold in consecutive numerical order commencing with the first four hundred thereof. The state treasurer shall not accept any bid which is less than the par value of the bond plus the interest which has accrued thereon between the date of sale and the last preceding interest maturity date. The state treasurer may at the time and place fixed by him for said sale continue such sale as to the whole or any part of the bonds offered to such time and place as he may at the time of such continuance designate. Before offering any of said bonds for sale, the said treasurer shall detach therefrom all coupons which have matured or will mature before the date fixed for such sale. The state treasurer shall give notice of the time and place of sale by publication in two newspapers published in the city and county of San Francisco and in one newspaper published in the city of Oakland, and in one newspaper published in the city of Los Angeles and in one newspaper published in the city of Sacramento once a week for four weeks next preceding the date fixed for such sale. In addition to the notice last above provided for, the state treasurer may give such further notice as he may deem advisable, but the expenses and cost

of such additional notice shall not exceed the sum of five hundred dollars for each sale so advertised.

There is hereby created in and for the state treasury a fund to be known and designated as the "State Highway Fund," and immediately after such sale of bonds the treasurer of the state shall pay into the state treasury and cause to be placed in said state highway fund the total amount received for said bonds, except such amount as may have been paid as accrued interest thereon. The amount that shall have been paid at such sale as accrued interest on the bonds sold shall be by the treasurer of the state, immediately after such sale, paid into the treasury of the state and placed in the interest and sinking fund.

The moneys placed in the state highway fund, pursuant to the provisions of this section, shall be used exclusively for the acquisition of rights of way for and the acquisition and construction of said system of state highways. The route or routes of said state highways shall be selected by the department of engineering and said route shall be so selected and said highways so laid out and constructed or acquired as to constitute a continuous and connected state highway system running north and south through the state traversing the Sacramento and San Joaquin valleys and along the Pacific coast by the most direct and practicable routes, connecting the county seats of the several counties through which it passes and joining the centers of population, together with such branch roads as may be necessary to connect therewith the several county seats lying east and west of such state highway.

Moneys shall be drawn from said state highway fund for the purposes of this act upon warrants duly drawn by the controller of this state upon demands made by the department of engineering and audited by the state board of examiners.

Sec. 5. There is hereby appropriated from the general fund in the state treasury such sum an-

nually as will be necessary to pay the principal of and the interest on the bonds, issued and sold pursuant to the provisions of this act, as said principal and interest becomes due and payable.

There shall be collected annually in the same manner and at the same time as other state revenue is collected such a sum, in addition to the ordinary revenues of the state as shall be required to pay the principal and interest on said bonds as herein provided, and it is hereby made the duty of all officers charged by law with any duty in regard to the collection of said revenue, to do and perform each and every act which shall be necessary to collect such additional sum.

The treasurer of the state shall, on the first day of January, 1912, and on the first day of each July and the first day of each January thereafter, transfer from the general fund of the state treasury to the interest and sinking fund such an amount of the money by this act appropriated as shall be required to pay the interest on the bonds theretofore sold, until the interest on all of said bonds so sold shall have been paid or shall have become due in accordance with the provisions of this act.

There is hereby created in the state treasury a fund to be known and designated as the "State Highway and Sinking Fund." The treasurer of the state shall on the first day of July of the year 1917, and on the first day of July of each and every year thereafter in which a parcel of the bonds sold pursuant to the provisions of this act shall become due, transfer from the general fund of the state treasury to the said state highway sinking fund such an amount of the moneys appropriated by this act as may be required to pay the principal of the bonds so becoming due and payable in such years.

Sec. 6. The principal of all of said bonds sold shall be paid at the time the same becomes due, from the state highway sinking fund, and the interest on all bonds sold shall be paid at the time said interest

becomes due, from the interest and sinking fund. Both principal and interest shall be so paid upon warrants duly drawn by the controller of the state upon demands audited by the state board of examiners, and the faith of the State of California is hereby pledged for the payment of the principal of said bonds so sold, and the interest accruing thereon.

Sec. 7. The state controller and state treasurer shall keep full and particular account and record of all their proceedings under this act and they shall transmit to the governor in triplicate an abstract of all such proceedings thereunder with an annual report in triplicate, one copy of each to be by the governor laid before each house of the legislature biennially. All books and papers pertaining to the matter provided for in this act shall, at all times, be open to the inspection of any party interested, or the governor, or the attorney-general, or a committee of either branch of the legislature or a joint committee of both or any citizen of the state.

Sec. 8. The highway constructed or acquired under the provisions of this act shall be permanent in character and be finished with oil or macadam or a combination of both, or of such other material as in the judgment of the said department of engineering shall be most suitable and best adapted to the particular locality traversed. The state department of engineering, in the name of the people of the State of California, may purchase, receive by donation or dedication, or lease any right of way, rock quarry or land necessary or proper for the construction, use or maintenance of said state highway and shall proceed, if necessary, to condemn under the provisions of the Code of Civil Procedure relating to such proceedings any necessary or proper right of way, rock quarry or land. The department of engineering shall have full power and authority to purchase all supplies, material, machinery and to do all other things necessary or proper in the construction and maintenance of said state highway. With the ex-

ception of those public highways which have been permanently improved under county or permanent road division bond issues within three years prior to the adoption of this act, all public highways within this state lying within the right of way of said state highway as determined and adopted by the department of engineering shall be and the same shall become a part of the right of way of said state highway, without compensation being paid therefor; provided, nothing herein contained shall require the state to maintain any highway along or on said right of way prior to the completion or acquisition of the permanent improvements contemplated by this act. Whenever any money received from the sale of bonds, under the provisions of this act, shall be expended in any county in this state, such county must pay into the state treasury such sum each year as shall equal the interest, at the rate of four per cent per annum, upon the entire sum of money expended within such county in the construction of said state highway, less such portion of said amount expended as the bonds matured under the provisions of this act shall bear to the total number of bonds sold and outstanding. All highways constructed or acquired under the provisions of this act shall be permanently maintained and controlled by the State of California.

Sec. 9. This act, if adopted by the people, shall take effect on the thirty-first day of December, 1910, as to all its provisions except those relating to, and necessary for, its submission to the people and for returning, canvassing and proclaiming the votes, and to such accepted provisions this act shall take effect immediately.

Sec. 10. This act shall be submitted to the people of the State of California for their ratification at the next general election to be holden in the month of November, 1910, A. D., and all ballots at said election shall have printed thereon, and at the end thereof, the words "For the state highway act"; and in a separate line, under the same, the

words "Against the state highway act." Opposite said lines there shall be left spaces in which the voters may make or stamp a cross to indicate whether they vote for or against said act, and those voting for said act shall do so by placing a cross opposite the words "For the state highway act"; and all those voting against the said act shall do so by placing a cross opposite the words "Against the state highway act." The governor of this state shall include the submission of this act to the people, as aforesaid, in his proclamation calling for said general election.

Sec. 11. The votes cast for or against this act shall be counted, returned and canvassed and declared in the same manner and subject to the same rules as votes cast for state officers, and if it appears that said act shall have received a majority of all the votes cast for and against it at such election, as aforesaid, then the same shall have effect as hereinbefore provided, and shall be irrepealable until the principal and interest of the liabilities herein created shall be paid and discharged, and the governor shall make proclamation thereof. But if a majority of the votes cast, as aforesaid, are against this act then the same shall be and become void.

Sec. 12. It shall be the duty of the secretary of state to have this act published in at least one newspaper in each county, or city and county, if one be published therein, throughout this state, for three months next preceding the general election to be holden in the month of November, A. D. nineteen hundred and ten; the cost of publication shall be paid out of the general fund, on controller's warrants duly drawn for the purpose.

Sec. 13. This act shall be known and cited as the "state highways act."

Sec. 14. All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

[Ratified at general election held November 8, 1910.]

[See also act of March 10, 1911, p. 273, post.]

An Act authorizing any incorporated town, city or municipal corporation to permit the construction and maintenance of any state or county highway or boulevard over highways or streets in its incorporated limits, or any portion thereof, by the supervisors or highway commissioners of the county.

[Approved March 19, 1909, Stats. 1909, p. 429.]

Section 1. Any incorporated city, town or municipal corporation in this state, is hereby authorized and empowered to permit by ordinance the use of its streets and highways by the board of supervisors or highway commissioners of the county, for the purpose of constructing and maintaining thereon any highway or boulevard as part of a state or county system of roads through its incorporated limits, or any portion thereof.

An Act relating to ferries across rivers and streams wholly within one county, and empowering the boards of supervisors of such county to purchase, establish and maintain ferries across such rivers or streams and to pay the expenses thereof.

[Approved April 16, 1909, Stats. 1909, p. 974.]

Section 1. Whenever the board of supervisors of any county within the State of California shall deem it advisable and for the best interests of the public that the county own and operate any ferry within such county, such board may purchase, establish and operate a ferry or ferries across any stream or river within said county and may operate the same as a free ferry or ferries.

Sec. 2. Such board of supervisors is hereby empowered to acquire landing places for such ferry or ferries on the banks of such river or stream and may pay the expenses of establishing and operating said ferry or ferries out of the general road fund

of said county; provided, however, that no supervisor or his bondsmen shall be responsible for the payment of damages incurred by any person while traveling on such ferry.

Sec. 3. This act shall take effect from and after its passage.

An Act to authorize and require the payment by the counties of interest on state highway bonds.

[Approved March 10, 1911; Stats. 1911, chap. 165.]

The people of the State of California, represented in senate and assembly, do enact as follows:

Section 1. For the purpose of carrying into effect the provisions relative to the payment of bond interest which are contained in "An act authorizing the construction, acquisition, maintenance and control of a system of state highways in the State of California; specifying the work, fixing the payments to be made by counties for moneys expended therein; providing for the issuance and sale of state bonds to create a fund for the construction and acquisition of such system; creating a sinking fund for the payment of said bonds; and providing for the submission of this act to a vote of the people," approved March 22, 1909, it is hereby made the duty of the state controller to keep an accurate account showing the amount of said bond money expended in each county. In connection with such account he shall annually, at the beginning of the fiscal year, charge up to each and every county such sum as shall equal the interest at four per cent per annum on the total amount of state highway bond money which has been expended in each such county.

Sec. 2. The controller shall notify the county auditor and the clerk of the board of supervisors of each county of the amount of such interest charge, in order that there may be included in the county tax levy such rate as will raise the sum needed

to meet such interest charge. It is hereby made the duty of the board of supervisors when making the annual levy of county taxes to include therein the necessary provision for payment of interest on state highway bonds, as in this act provided, but no failure of any board of supervisors to make the tax levy herein provided for shall be held to exempt such county from the collection by the state, in the manner provided for in the next section of this act, of the amount of interest due from such county.

Sec. 3. In the regular semi-annual settlements between the state and the counties, the controller shall charge to, and collect from, each county one-half the amount of interest with which such county has been charged for that fiscal year; provided, that as soon as any of the state highway bonds shall have matured and been paid, the controller shall credit each county with its proportionate part of the diminution of the total interest charge thereby occasioned.

Sec. 4. The controller is authorized to require from the state engineering department, and it is hereby made the duty of said department to furnish all necessary data to show the amount of state highway bond money expended in each county.

An Act authorizing any city and county or municipality within this state, power to grant franchises, to lay steam heating pipes in the streets, roads, avenues, alleys and public highways, for the purpose of carrying steam to be used for heating purposes.

[Approved April 12, 1911; Stats. 1911, chap. 445.]

The people of the State of California, represented in senate and assembly, do enact as follows:

Section 1. Power is hereby given to all cities and counties and municipalities within this state to grant franchises for the purpose of laying pipes in the streets, roads, avenues, alleys and public

highways therein, for the purpose of carrying steam heat under high pressure; to be used, distributed and sold to the inhabitants thereof, for heating purposes.

The granting of such franchises shall be subject to the provisions of the act entitled "An act providing for the sale of street railroad and other franchises in counties and municipalities, and providing conditions for the granting of such franchises by legislative or other governing bodies, and repealing conflicting acts," and any act or acts amendatory thereof.

An act to provide for work upon streets, avenues, lanes, alleys, courts and places forming the exterior boundaries of any municipality, whether partly, or wholly, within or without said boundaries, and providing for the construction of sewers, drains, and sidewalks thereon and in connection therewith.

[Approved April 21, 1911; Stats. 1911, chap. 496.]

- § 1. Streets, etc., forming exterior boundaries of municipality, covered by this act.
- § 2. City council and board of supervisors may order street work.
- § 3. Jurisdiction over.
- § 4. Resolution of intention to do work. Notice. Objections.
- § 5. Owners liable to be assessed may petition.
- § 6. Notice to be posted. Proposals or bids. Award of contract.
- § 7. Superintendent of streets or county surveyor to make the contract.
- § 8. Bond of contractor. Claims.
- § 9. Expenses of work, how assessed.
- § 10. Superintendent of streets or county surveyor to make assessment. Diagram.
- § 11. Warrant, form of. Recordation of warrant, assessment and diagram.
- § 12. Amount assessed, how collected and paid.
- § 13. Aggrieved owners may appeal.
- § 14. Suit to recover street assessments.
- § 15. Assessment may be made before completion of work.
- § 16. Records of street superintendent or county surveyor.

- § 17. Service of notices.
- § 18. Acceptance of street.
- § 19. Authority to construct sewers, manholes, gutters, etc.
- § 20. Council or board may order expenses of work paid out of treasury.
- § 21. When part order paid out of treasury, remainder how assessed.
- § 22. City engineer or county surveyor to do surveying, etc.
- § 23. "Incidental expenses" includes what.
- § 24. Notices, etc., how published.
- § 25. "Council" or "board" defined.
- § 26. "Superintendent of streets" and "county surveyor." Use of terms explained.
- § 27. "Work," "improved" and "improvements" defined.
- § 28. "Municipality" defined.
- § 29. "Paved" or "repaved" defined.
- § 30. "Street," "main street" and "blocks" defined.
- § 31. "Street superintendent" defined.
- § 32. "Clerk" defined.
- § 33. "Quarter block" defined.
- § 34. "One year" defined.
- § 35. When act takes effect.

Section 1. All streets, avenues, lanes, alleys, courts, or places forming the exterior boundaries of any municipality of this state, whether partly, or wholly, within or without said boundaries, now open or dedicated, or which may hereafter be opened or dedicated to public use, shall be deemed and held to be open public streets, avenues, lanes, alleys, places or courts for the purposes of this act, and the city council of each municipality, and the board of supervisors of the county in which said municipality is located, are hereby empowered to establish and change the grades of said streets, lanes, alleys, avenues, places or courts, and fix the width thereof, and are hereby invested with jurisdiction to order to be done thereon any of the work mentioned in section two of this act, under the proceedings hereinafter described.

Sec. 2. Whenever the public interest or convenience may require, said council and said board of supervisors are hereby authorized and empowered to order the whole, or any portion, either in length or width, of any streets, avenues, lanes, alleys, places

or courts forming the exterior boundaries of any municipality, whether partly, or wholly, within or without said boundaries, graded or regraded to the official grade, planked or replanked, paved or repaved, macadamized or re-macadamized, graveled or regraveled, piled or repiled, capped or recapped, oiled or reoiled, sewerred or resewerred, and to order sidewalks, manholes, culverts, bridges, cesspools, gutters, tunnels, curbing and crosswalks to be constructed therein, and to order storm water ditches, channels, breakwaters, levees or walls of rock or other material to protect the same from overflow or injury, and to order any other work to be done, which shall be necessary to complete the whole, or any portion of said streets, avenues, lanes, alleys, courts, places or sidewalks, and they may order any of said work to be improved; and also to order a sewer or sewers with outlets for drainage or sanitary purposes, in, over, or through any right of way granted or obtained for such purposes.

Sec. 3. The council of each municipality, and the board of supervisors of the county in which said municipality is located, shall have concurrent jurisdiction of all proceedings under this act, and the council, or board, passing the resolution of intention hereinafter provided for shall thereafter have exclusive jurisdiction of all work and proceedings covered by said resolution, except as herein otherwise provided.

Sec. 4. Before ordering any work done, or improvement made, which is authorized by section two of this act, the said council, or the said board of supervisors, shall pass a resolution of intention so to do and describing the work, which shall be posted conspicuously for two days on or near the chamber door of said council, or board, and published by two insertions in one or more daily, semi-weekly, or weekly newspapers published and circulated in said municipality, and designated by said council, or board, for that purpose. The street superintendent of said municipality, when the resolution is passed by said council, or the county sur-

veyor, when the resolution is passed by said board, shall thereupon cause to be conspicuously posted along the line of said contemplated work or improvement, at not more than one hundred feet in distance apart, but not less than three in all, or when the work to be done is only upon an entire crossing, or any part thereof, in front of each quarter block and irregular block liable to be assessed, notices of the passage of said resolution. Said notice shall be headed "notice of street work," in letters of not less than one inch in length, and shall, in legible characters, state the fact of the passage of the resolution, its date, and briefly the work or improvement proposed, and refer to the resolution for further particulars. He shall also cause a notice, similar in substance, to the published for six days in one or more daily newspapers published and circulated in said municipality, and designated by said council, or board, or in municipalities where there is no daily newspaper, by one insertion in a semi-weekly or weekly newspaper so published circulated and designated. In case there is no such paper published in said municipality, said notice shall be posted for six days on or near the chamber door of said council, or board, and in two other conspicuous places in said municipality. The owners of a majority of the frontage of the property fronting on said proposed work or improvement, where the same is for one block or more, may make a written objection to the same within ten days after the expiration of the time of the publication and posting of said notice, which objection shall be delivered to the clerk of the council, or board, who shall indorse thereon the date of its reception by him. Said council, or board, shall, at its next meeting, fix a time for hearing said objections not less than one week thereafter. The clerk of said council, or board, shall thereupon notify the persons making such objections, by depositing a notice of the time and place fixed for the hearing of said objections in the post office of said municipality, postage prepaid,

addressed to each objector, or his agent, when he appears for such objector. At the time specified said council, or board, shall hear the objections urged, and pass upon the same, and its decision thereon shall be final and conclusive. At the expiration of twenty days after the expiration of the time of said publication of said notice given by said street superintendent, or county surveyor, and at the expiration of twenty-five days after the advertising and posting, as aforesaid, of any resolution of intention, if no written objection to the work therein described has been delivered, as aforesaid, by the owners of the majority of the frontage of the property fronting on said proposed work or improvement or if any written objection has been overruled by the said council, or board, the said council, or board, shall be deemed to have acquired jurisdiction to order any of the work to be done, or improvement to be made, which is authorized by this act; which order or resolution, when made, shall be published for two days, the same as provided for the publication of the resolution of intention. Before passing any resolution for the construction of said improvements, plans and specifications and careful estimates of the costs and expenses thereof shall be furnished to said council, or board, if required, by the city engineer of said municipality, or the county surveyor, and for the work of constructing sewers, specifications shall always be furnished by him. Whenever the contemplated work of improvement, in the opinion of the council, or board, is of more than local or ordinary public benefit, or whenever, according to estimate to be furnished by the city engineer, or county surveyor, the total estimated costs and expenses thereof would exceed one-half of the total assessed value of the lots and lands assessed, if assessed upon the lots or land fronting upon said proposed work or improvement, according to the valuation fixed by the last assessment roll whereon it was assessed for taxes for county purposes, and allowing a reasonable depth from such frontage for lots or lands assessed

in bulk, the council, or board, may make the expense of such work or improvement chargeable upon a district, which the said council, or board, shall, in its resolution of intention, declare to be the district benefited by said work or improvement, and to be assessed to pay the costs and expenses thereof. Objections to the extent of the district of lands to be affected or benefited by said work or improvement, and to be assessed to pay the costs and expenses thereof, may be made by interested parties in writing, within ten days after the expiration of the time of the publication of the notice of the passage of the resolution of intention. The council, or board, shall, at its next meeting, fix a time for hearing said objections not less than one week thereafter. The clerk thereof shall thereupon notify the persons making such objections by depositing a notice thereof in the post office of said municipality, postage prepaid, addressed to each objector. At the time specified the council, or board, shall hear the objections urged, and pass upon the same, and its decision shall be final and conclusive. If the objections are sustained, all proceedings shall be stopped; but proceedings may be immediately again commenced by giving the notice of intention to do the said work or make said improvements. If the objections are overruled by the council, or board, the proceedings shall continue the same as if such objections had not been made.

Sec. 5. The owners of a majority in frontage of lots and lands fronting on any street, avenue, lane, alley, place or court, or of lots or lands liable to be assessed for the expense of the work petitioned to be done, or their duly authorized agents, may petition the council, or board to order any of the work mentioned in this act to be done, and the council or board, may order the work mentioned in said petition to be done, after notice of its intention so to do has been posted and published as provided in section four of this act.

Sec. 6. Before the awarding of any contract by

the council, or board, for doing any work authorized by this act, the council, or board, shall cause notice, with specifications, to be posted conspicuously for five days on or near the council, or board, chamber door, inviting sealed proposals or bids for doing the work ordered, and shall also cause notice of said work, inviting said proposal, and referring to the specifications posted or on file, to be published for two days in a daily, semi-weekly, or weekly newspaper published and circulated in said municipality, designated by the council, or board, for that purpose, and in case there is no newspaper published in said municipality, then it shall only be posted as hereinbefore provided. All proposals or bids offered shall be accompanied by a check payable to the order of the mayor of the municipality, or president of the board of supervisors, certified by a responsible bank, for an amount which shall not be less than ten per cent of the aggregate of the proposal, or by a bond for the said amount and so payable, signed by the bidder and by two sureties, who shall justify, before any officer competent to administer an oath, in double the said amount, over and above all statutory exemptions. Said proposals or bids shall be delivered to the clerk of said council, or board, and said council, or board, shall, in open session, examine and publicly declare the same; provided, however, that no proposal or bid shall be considered unless accompanied by said check or bond satisfactory to the council, or board. The council, or board, may reject any and all proposals or bids should it deem this for the public good, and also the bid of any party who has been delinquent and unfaithful in any former contract with the municipality or county, and shall reject all proposals or bids other than the lowest regular proposal or bid of any responsible bidder, and may award the contract for said work or improvement to the lowest responsible bidder at the prices named in his bid. If not approved by the council, or board, without further proceedings, the council, or board, may readvertise for proposals or bids for

the performance of the work as in the first instance, and thereafter proceed in the manner in this section provided, and shall thereupon return to the proper parties the respective checks and bonds corresponding to the bid so rejected. But the checks accompanying such accepted proposals or bids shall be held by the clerk of said council, or board, until the contract for doing said work, as hereinafter provided, has been entered into, either by said lowest bidder or by the owners of three-fourths part of the frontage, whereupon said certified check shall be returned to said bidder. But if said bidder fails, neglects or refuses to enter into the contract to perform said work or improvement, as hereinafter provided, then the certified check accompanying his bid and the amount therein mentioned, shall be declared to be forfeited to said municipality, or county, and shall be collected by it and paid into its fund for repairs of streets, avenues, lanes, alleys, courts and places herein mentioned, and any bond forfeited may be prosecuted, and the amount due thereon collected and paid into said fund. Notice of such awards of contracts shall be posted for five days, in the same manner as hereinbefore provided for the posting of proposals for said work, and shall be published for two days in a daily newspaper published and circulated in said municipality and designated by said council, or board, or in municipalities where there is no daily newspaper, by one insertion in a semi-weekly or weekly newspaper so published, circulated and designated; provided, however, that in case there is no newspaper printed or published in any such municipality, then such notice of award shall only be kept posted as hereinbefore provided. The owners of three-fourths of the frontage of lots and lands upon the street whereon said work is to be done, or their agents, and who shall make oath that they are such owners or agents, shall not be required to present sealed proposals or bids, but may, within ten days after the first posting and publication of said notice of said award, elect to

take said work and enter into a written contract to do the whole work at the price at which the same has been awarded. Should the said owners fail to elect to take said work, and to enter into a written contract therefor within ten days, or to commence the work within fifteen days after the first posting and publication of said award, and to prosecute the same with diligence to completion, it shall be the duty of the superintendent of streets, or county surveyor, to enter into a contract with the original bidder to whom the contract was awarded, and at the prices specified in his bid. But if such original bidder neglects, fails or refuses, for fifteen days after the first posting and publication of the notice of award, to enter into the contract, then the council, or board, without further proceedings, shall again advertise for proposals or bids, as in the first instance, and award the contract for said work to the then lowest regular bidder. The bids of all persons and the election of all owners, as aforesaid, who have failed to enter into the contract as herein provided, shall be rejected in any bidding or election subsequent to the first for the same work. If the owner, or contractor, who may have taken any contract, does not complete the same within the time limited in the contract, or within such further time as the council, or board, may give them, the superintendent of streets, or county surveyor, shall report such delinquency to the council, or board, which may relet the unfinished portion of said work, after pursuing the formalities prescribed hereinbefore for the letting of the whole in the first instance. All contractors, contracting owners included, shall, at the time of executing any contract for street work, execute a bond to the satisfaction and approval of the superintendent of streets, or county surveyor, with two or more sureties and payable to such municipality, or county, in such sums as the council, or board, shall deem adequate, conditioned for the faithful performance of the contract; and the sureties shall justify before any person competent to

administer an oath, in double the amount mentioned in said bond, over and above all statutory exemptions. Before being entitled to a contract, the bidder to whom the award was made, or the owners who have elected to take the contract, must advance to the superintendent of streets, or county surveyor, for payment by him, the cost of publication of the notices, resolutions, orders, or other incidental expenses and matters required under the proceedings prescribed in this act, and such other notices as may be deemed requisite by the council, or board. And in case the work is abandoned by the council, or board, before the letting of the contract, the incidental expenses incurred previous to such abandonment shall be paid out of the treasury of the municipality, or county.

Sec. 7. The superintendent of streets, or county surveyor, is hereby authorized, in his official capacity, to make all written contracts, and receive all bonds authorized by this act, and to do any other act, either express or implied, that pertains to the street department under this act; and he shall fix the time for the commencement, which shall not be more than fifteen days from the date of the contract, and for the completion of the work under all contracts entered into by him, which work shall be prosecuted with diligence from day to day thereafter to completion, and he may extend the time so fixed from time to time, under the direction of the council, or board. The work provided for in section two of this act must, in all cases, be done under the direction and to the satisfaction of the superintendent of streets, or county surveyor, and the materials used shall comply with the specifications and be to the satisfaction of said superintendent of streets, or county surveyor, and all contracts made therefor must contain a provision to that effect, and also express notice that, in no case, except where it is otherwise provided in this act, will the municipality, or county, or any officer thereof, be liable for any portion of the expense, nor for any delinquency

of persons or property assessed. The council, or board, may, by ordinance, prescribe general rules directing the superintendent of streets, or county surveyor and the contractor, as to the materials to be used, and the mode of executing the work, under all contracts thereafter made. The assessment and apportionment of the expenses of all such work or improvements shall be made by the superintendent of streets, or county surveyor, in the mode herein provided.

Sec. 8. Every contractor, person, company or corporation, including contracting owners, to whom is awarded any contract for street work under this act, shall, before executing the said contract, file with the superintendent of streets, or county surveyor, a good and sufficient bond, approved by him, in a sum not less than one-half of the total amount payable according to the terms of said contract, such bond shall be made to inure to the benefit of any and all persons, companies, or corporations who perform labor on, or furnish materials to be used in the said work of improvement, and shall provide that if the contractor, person, company, or corporation to whom said contract was awarded fails to pay for any materials so furnished for the said work of improvement, or for any work of labor done thereon of any kind, that the sureties will pay the same, to an amount not exceeding the sum specified in said bond. Any materialmen, person, company or corporation, furnishing materials to be used in the performance of said work specified in said contract, or who performed work or labor upon the said improvement, whose claim has not been paid by the said contractor, company, or corporation, to whom the said contract was awarded, may, within thirty days from the time said improvement is completed, file with the superintendent of streets or county surveyor, a verified statement of his or its claim, together with a statement that the same, or some part thereof, has not been paid. At any time within ninety days after the filing of such claim,

the person, company, or corporation, filing the same or their assigns may commence an action on said bond for the recovery of the amount due on said claim, together with the costs incurred in said action, and a reasonable attorney fee, to be fixed by the court, for the prosecution thereof.

Sec. 9. Sub. 1. The expenses incurred for any work authorized by this act (which expense shall not include the cost of any work done in such portion of any street as is required by law to be kept in order or repair by any person or company having railroad tracks thereon, nor include work which shall have been declared in the resolution of intention to be assessed on a district benefited) shall be assessed upon the lots and lands fronting thereon, except as hereinafter specifically provided; each lot or portion of a lot being separately assessed, in proportion to the frontage, at a rate per front foot sufficient to cover the total expense of the work.

Sub. 2. The expense of all improvements, until the streets, avenues, street crossings, lanes, alleys, places, or courts, are finally accepted, as provided in section eighteen of this act shall be assessed upon the lots and lands, as provided in this section, according to the nature and character of the work. And after such acceptance the expense of all work thereafter done on the portion thereof lying within the municipality shall be paid by said municipality out of the street department fund, and all work thereafter done on the portion thereof lying without the boundaries of the municipality shall be paid by said county out of the general road fund, and if at any time thereafter the portion thereof lying without the boundaries of said municipality shall be included within its boundaries, then the expense of all work thereafter done thereon shall be paid by said municipality out of the said street department fund.

Sub. 3. The expense of the work done on main street crossings shall be assessed at a uniform rate

per front foot of the quarter blocks and irregular blocks adjoining and cornering upon the crossings, and separately upon the whole of each lot or portion of a lot having any frontage in the said blocks fronting on said main streets, half way to the next main street crossing, and three hundred feet on blocks where no such crossing intervenes within six hundred feet of such street crossing, but only according to its frontage in said quarter blocks and irregular blocks.

Sub. 4. Where a main street terminates in another main street, the expenses of the work done on one-half of the width of the street opposite the termination shall be assessed upon the lots in each of the two quarter blocks adjoining and cornering on the same, according to the frontage of such lots on said main streets provided, that lots and lands more than three hundred feet from such termination on such cross street shall not be assessed for any portion of such expense at such termination, and the expense of the other half of the width of said street upon the lot or lots fronting on the latter half of the street at such termination.

Sub. 5. Where an alley or subdivision street crosses a main street, the expense of all work done on said crossing shall be assessed on all lots or portions of lots half way on said alley or subdivision street to the next crossing or intersection, or to the end of such alley or subdivision street, if it does not meet another.

Sub. 6. The expense of work done on alley or subdivision street crossings shall be assessed upon the lots fronting upon such alley or subdivision streets on each side thereof, in all directions, half way to the next street, place or court, on either side, respectively, or to the end of such alley or subdivision street, if it does not meet another provided that lots and lands more than three hundred feet from such crossing on such alley or subdivision street shall not be assessed therefor.

Sub. 7. Where a subdivision street, avenue, lane,

alley, place, or court terminates in another street, avenue, lane, alley, place or court, the expense of the work done on one-half of the width of the subdivision street, avenue, lane, alley, place, or court opposite the termination, shall be assessed upon the lot or lots fronting on such subdivision street, or avenue, lane, alley, place, or court so terminating, according to its frontage thereon, half way on each side respectively to the next street, avenue, lane, alley, court, or place, or to the end of such street, avenue, lane, alley, place, or court, if it does not meet another provided, that lots and lands located more than three hundred feet from such termination on such subdivision street shall not be assessed therefor, and the other one-half of the width upon the lots fronting such termination.

Sub. 8. Where any work mentioned in this act (manholes, cesspools, culverts, crosswalks, piling, and capping excepted) is done on either or both sides of the center line of any street for one block or less, and further work opposite to the work of the same class already done is ordered to be done to complete the unimproved portion of said street, the assessment to cover the total expenses of said work so ordered shall be made upon the lots, or portions of the lots only fronting the portions of the work so ordered.

Sub. 9. Section one of chapter three hundred and twenty-five of the laws of this state, entitled "An act amendatory of and supplementary to an act to provide revenue for the support of the government of this state, approved April twenty-ninth, eighteen hundred and fifty-seven," approved April nineteenth, eighteen hundred and fifty-nine, shall not be applicable to the provisions of this section; but the property herein mentioned shall be subject to the provisions of this act, and be assessed for work done under the provisions of this section.

Sub. 10. The council, or board, may include in one resolution of intention and order any of the

different kinds of work mentioned in this act, and it may except therefrom any of said work already done upon the street to the official grade. The lots and portions of lots fronting upon said excepted work already done shall not be included in the frontage assessment for the class of work from which the exception is made.

Sub. 11. Whenever the resolution of intention declares that the costs and expenses of the work and improvement are to be assessed upon a district the council, or board, shall direct the city engineer, or county surveyor, to make a diagram of the property affected or benefited by the proposed work or improvement, as described in the resolution of intention, and to be assessed to pay the expenses thereof. Such diagram shall show each separate lot, piece or parcel of land, the area in square feet of each of such lots, pieces, or parcels of land, and the relative location of the same to the work proposed to be done, all within the limits of the assessment district; and when said diagram shall have been approved by the council, or board, the clerk shall, at the time of such approval, certify the fact and date thereof. Immediately thereafter the said diagram shall be delivered to the superintendent of streets, or county surveyor, of said municipality, or county, who shall, after the contractor of any street work has fulfilled his contract to the satisfaction of said superintendent of streets, or county surveyor, and council, or board on appeal, if an appeal is taken, proceed to estimate upon the lands, lots or portions of lots within said assessment district, as shown by said diagram, the benefits arising from such work, and to be received by each such lot, portion of such lot, piece, or subdivision of land, and shall thereupon assess upon and against said lands in said assessment district the total amount of the costs and expenses of such proposed work, and in so doing shall assess said total sum upon the several pieces, parcels, lots, or portions of lots, and subdivisions of land in said district benefited there-

by, to wit: upon each respectively in proportion to the estimated benefits to be received by each of said several lots, portions of lots, or subdivisions of land. In other respects the assessment shall be as provided in the next section and the provisions of subdivisions three, four, five, six, seven and eight of this section shall not be applicable to the work or improvement provided for in this subdivision.

Sec. 10. After the contractor of any street work has fulfilled his contract to the satisfaction of the street superintendent, or county surveyor, and council, or board, on appeal, if an appeal is taken, the street superintendent, or county surveyor, shall make an assessment to cover the sum due for the work performed and specified in said contract (including any incidental expenses), in conformity with the provisions of the preceding section according to the character of the work done; or, if any direction and decision be given by said council, or board, on appeal, then in conformity with such direction and decision, which assessment shall briefly refer to the contract, the work contracted for and performed, and shall show the amount to be paid therefor, together with any incidental expenses, the rate per front foot assessed, if the assessment be made per front foot, the amount of each assessment, the name of the owner of each lot or portion of a lot (if known to the street superintendent, or county surveyor, if unknown the word "unknown" shall be written opposite the number of the lot), and the amount assessed thereon, the number of each lot or portion or portions of a lot assessed, and shall have attached thereto a diagram exhibiting each street or street crossing, lane, alley, place, or court, on which any work has been done, and showing the relative location of each district lot, or portion of lot to the work done, numbered to correspond with the numbers in the assessments, and showing the number of feet fronting, or number of lots assessed, for said work contracted for and performed.

Sec. 11. To said assessment shall be attached a warrant, which shall be signed by the superintendent of streets, or county surveyor, and countersigned by the mayor of said municipality, or the president of said board. The said warrant shall be substantially in the following form.

FORM OF THE WARRANT.

By virtue hereof, I (name of the superintendent of streets) of the city of....., county of....., (or county surveyor of county, or city and county of.....), and State of California, by virtue of the authority vested in me as said superintendent of streets, or county surveyor, do authorize and empower (name of contractor), (his or their) agents or assigns, to demand and receive the several assessments upon the assessment and diagram hereto attached, and this shall be (his or their) warrant for the same.

(Date.)

Countersigned by (name of mayor of municipality or president of board.)

.....
(Name of superintendent of streets or county surveyor.)

Said warrant, assessment, and diagram, together with the certificate of the city engineer, or county surveyor, shall be recorded in the office of said superintendent of streets, or county surveyor. When so recorded, the several amounts assessed shall be a lien upon the lands, lots, or portions of lots assessed, respectively, for the period of two years from the date of said recording, unless sooner discharged; and from and after the date of said recording of any warrant, assessment, diagram and certificate, all persons mentioned in section thirteen of this act shall be deemed to have notice of the contents of the record thereof. After said warrant, assessment, diagram, and certificate are recorded, the same shall be delivered to the contractor, or his agent, or assigns, on demand, but

not until after the payment to the said superintendent of streets, or county surveyor, of the incidental expenses not previously paid by the contractor, or his assigns and by virtue of said warrant said contractor, or his agent, or assigns, shall be authorized to demand and receive the amount of the several assessments made to cover the sum due for the work specified in such contracts and assessments. Whenever it shall appear by any final judgment of any court of this state that any suit brought to foreclose the lien of any sum of money assessed to cover the expense of said street work done under the provisions of this act has been defeated by reason of any defect, error, informality, omission, irregularity, or illegality in any assessment hereafter to be made and issued, or in the recording thereof, or in the return thereof made to, or recorded by said superintendent of streets, or county surveyor, any person, interested therein may, at any time within three months after the entry of said final judgment, apply to said superintendent of streets, or county surveyor, who issued the same, or to any superintendent of streets, or county surveyor, in office at the time of said application, for another assessment to be issued in conformity to law; and said superintendent of streets, or county surveyor, shall, within fifteen days after the date of said application, make and deliver to said applicant a new assessment, diagram, and warrant in accordance with law; and the acting mayor of the municipality, or president of the board, shall countersign the same as now provided by law, which assessment shall be a lien for the period of two years from the date of said assessment, and be enforced as provided in section nine of this act.

Sec. 12. The contractor, or his assigns, or some person in his, or their behalf, shall call upon the persons assessed, or their agents, if they can conveniently be found, and demand payment of the amount assessed to each. If any payment be

made the contractor, his assigns, or some person in his or their behalf, shall receipt the same upon the assessment in presence of the person making such payment, and shall also give a separate receipt if demanded. Whenever the persons so assessed, or their agents, cannot conveniently be found, or whenever the name of the owner of the lot is stated as "unknown" on the assessment, then the said contractor, or his assigns, or some person in his or their behalf, shall publicly demand payment on the premises assessed. The warrant shall be returned to the superintendent of streets, or county surveyor, within thirty days after its date, with a return indorsed thereon, signed by the contractor, or his assigns, or some person in his or their behalf, verified upon oath, stating the nature and character of the demand, and whether any of the assessments remain unpaid, in whole or in part, and the amount thereof. Thereupon the superintendent of streets, or county surveyor, shall record the return so made, in the margin of the record of the warrant and assessment, and also the original contract referred to therein, if it has not already been recorded at full length in a book to be kept for that purpose in his office, and shall sign the record. The said superintendent of streets, or county surveyor, is authorized at any time to receive the amount due upon any assessment list and warrant issued by him, and give a good and sufficient discharge therefor; provided, that no such payment so made after suit has been commenced, without the consent of the plaintiff in the action, shall operate as a complete discharge of the lien until the costs in the action shall be refunded to the plaintiff; and he may release any assessment upon the books of his office, on the payment to him of the amount of the assessment against any lot with interest, or on the production to him of the receipt of the party or his assigns to whom the assessment and warrant were issued; and if any contractor shall fail to return his warrant within the time and

in the form provided in this section he shall thenceforth have no lien upon the property assessed; provided, however, that in case any warrant is lost, upon proof of such loss a duplicate can be issued, upon which a return may be made, with the same effect as if the original had been so returned. After the return of the assessment and warrant as aforesaid, all amounts remaining due thereon shall draw interest at the rate of ten per cent per annum until paid.

Sec. 13. The owners, whether named in the assessment or not, the contractor, or his assigns, and all other persons directly interested in any work provided for in this act, or in the assessment, feeling aggrieved by any act or determination of the superintendent of streets, or county surveyor, in relation thereto, or who claim that the work has not been performed according to the contract in a good and substantial manner, or having or making any objection to the correctness or legality of the assessment or other act, determination, or proceedings of the superintendent of streets, or county surveyor, shall, within thirty days after the date of the warrant, appeal to the council, or board, by briefly stating their objections in writing, and filing the same with the clerk of said council, or board. Notice of the time and place of the hearing, briefly referring to the work contracted to be done, or other subject of appeal, and to the acts, determinations or proceedings objected to or complained of, shall be published for five days. Upon such appeal, the said council, or board may remedy and correct any error or informality in the proceedings, and revise and correct any of the acts or determinations of the superintendent of streets, or county surveyor, relative to said work; may confirm, amend, set aside, alter, modify, or correct the assessment in such manner as to them shall seem just, and require the work to be completed according to the directions of the council, or board; and may instruct and direct the superintendent of

streets, or county surveyor, to correct the warrant, assessment, or diagram in any particular, or to make and issue a new warrant, assessment, and diagram, to conform to the decisions of said council, or board, in relation thereto, at their option. All the decisions and determinations of said council, or board, upon notice and hearing as aforesaid, shall be final and conclusive upon all persons entitled to appeal under the provisions of this section, as to all errors, informalities, and irregularities which said council, or board, might have remedied and avoided; and no assessment shall be held invalid, except upon appeal to said council, or board, as provided in this section for any error, informality, or other defect in any of the proceedings prior to the assessment, or in the assessment itself, where notice of the intention of the council, or board, to order the work to be done, for which the assessment is made, has been actually published in any designated newspaper of said city for the length of time prescribed by law, before the passage of the resolution ordering the work to be done.

Sec. 14. At any time after the period of thirty-five days from the date of the warrants, as herein provided, or if an appeal is taken to said council, or board, as provided in section thirteen of this act, at any time after five days from the decision of said council, or board, or after the return of the warrant or assessment, after the same may have been corrected, altered, or modified, as provided in said section thirteen (but not less than thirty-five days from the date of the warrant), the contractor or his assignee may sue, in his own name, the owner of the land, lots, or portions of lots, assessed on the day of the date of the recording of the warrant, assessment, and diagram, or any day thereafter during the continuance of the lien of said assessment, and recover the amount of any assessment remaining unpaid, with interest thereon at the rate of ten per cent per annum until paid.

And in all cases of recovery under the provisions of this act, the plaintiff shall recover the sum of fifteen dollars, in addition to the taxable cost as attorney's fees, but not any percentage upon said recovery. And when suit has been brought, after a personal demand has been made and a refusal to pay such assessment so demanded, the plaintiff shall also be entitled to have and recover said sum of fifteen dollars, as attorney's fees, in addition to all taxable costs, notwithstanding that the suit may be settled or a tender may be made before a recovery in said action, and he may have judgment therefor. Suit may be brought in the superior court of the county within whose jurisdiction the said work has been done, and in case any of the assessments are made against lots, portions of lots, or lands the owners thereof cannot, with due diligence, be found, the service in each of such actions may be had in such manner as is prescribed in the codes and laws of this state. The said warrant, assessment, certificate, and diagram, with the affidavit of demand and non-payment, shall be held prima facie evidence of the regularity and correctness of the assessment and of the prior proceedings and acts of the superintendent of streets, or county surveyor, and council, or board, upon which said warrant, assessment, and diagram are based, and like evidence of the right of the plaintiff to recover in the action. The court in which said suit shall be commenced shall have power to adjudge and decree a lien against the premises assessed, and to order such premises to be sold on execution, as in other cases of the sale of real estate by the process of said courts; and on appeal, the appellate courts shall be vested with the same power to adjudge and decree a lien and to order such premises to be sold on execution or decree as is conferred on the court from which an appeal is taken. Such premises, if sold, may be redeemed as in other cases. In all suits now pending, or hereafter brought to recover street assessments, the proceed-

ings therein shall be governed and regulated by the provisions of this act, and also, when not in conflict herewith, by the codes of this state. This act shall be liberally construed to effect the ends of justice.

Sec. 15. The council, or board, instead of waiting until the completion of the improvement, may, in its discretion, and not otherwise, upon the completion of two blocks or more of any improvement, order the street superintendent, or county surveyor, to make an assessment for the proportionate amount of the contract completed, and thereupon proceedings and rights of collection of such proportionate amount shall be had as provided herein.

Sec. 16. The records kept by the superintendent of streets, or county surveyor in conformity with the provisions of this act, and signed by him, shall have the same force and effect as other public records, and copies therefrom, duly certified, may be used in evidence with the same effect as the originals. The said records shall, during all office hours, be open to the inspection of any citizen wishing to examine them, free of charge.

Sec. 17. Notices in writing which are required to be given by the superintendent of streets, or county surveyor, under the provisions of this act, may be served by any person with the permission of the superintendent of streets, or county surveyor, and the fact of such service shall be verified by the oath of the person making it, taken before the superintendent of streets, or county surveyor, who for that purpose, and for all other purposes, and in all cases where a verification is required under the provisions of this act, is hereby authorized to administer oaths, or other person authorized to administer oaths, or such notices may be delivered by the superintendent of streets, or county surveyor, himself, who must also verify the service thereof, and who shall keep a record of the fact of giving such notices, when delivered by himself

personally, and also of the notices and proof of service when delivered by any other person.

Sec. 18. Whenever any street, or portion of a street, has been or shall hereafter be fully constructed to the satisfaction of the superintendent of streets or county surveyor, and of the council, or board, and is in good condition throughout and a sewer, gas pipes, and water pipes are laid therein, under such regulations as the council, or board, shall adopt, the same shall be accepted by the council, or board, by ordinance, and thereafter shall be kept in repair and improved by the said municipality, or county as herein directed, provided that the council, or board, may partially or conditionally accept any street, or portion of a street, without a sewer, or gas pipes, or water pipes therein, if the ordinance of acceptance expressly states that the council, or board, deems such sewer, or gas pipes, or water pipes to be then unnecessary, but the lots of land previously, or at any time, assessable for the cost of constructing a sewer shall remain and be assessable for such cost, and for the cost of repairs and restoration of the street damaged in the said construction, whenever said council, or board, shall deem a sewer to be necessary, and shall order it to be constructed, the same as if no partial or conditional acceptance had ever been made. The superintendent of streets, or county surveyor, shall keep in his office a register of all streets accepted by the council, or board, under this section, which register shall be indexed for easy reference thereto.

Sec. 19. The council, or board, shall have full power and authority to construct sewers, gutters, and manholes and provide for the cleaning of the same, and culverts or cesspools, or crosswalks or sidewalks, or any portion of any sidewalk upon or in any of such streets, avenues, lanes, alleys, courts or places, and also for drainage purposes over or through any right of way obtained or granted for

such purposes, with necessary and proper outlet or outlets to the same, of such materials, in such a manner, and upon such terms as it may be deemed proper.

Sec. 20. The said council, or board, may, in its discretion, order by resolution, that the whole or any part of the cost and expenses of any of the work mentioned in this act be paid out of the treasury of the municipality, or county, from such fund as the council, or board, may designate. Whenever the work to be done is situated partly within, and partly without, the municipality, both the council and the board may, in their discretion, order, by resolution, that the whole, or any part of the costs and expenses of the work mentioned in this act, be paid out of the treasury of said municipality, or county, or both, and when the whole, or a portion thereof is to be paid out of both, each shall pay such proportion thereof as may be agreed upon, from such funds as the said council, or board may designate.

Sec. 21. Whenever a part of such cost and expenses is so ordered to be paid, the superintendent of streets, or county surveyor, in making up the assessment heretofore provided for such cost and expenses, shall first deduct from the whole cost and expense such part thereof as has been so ordered to be paid out of the municipal treasury or county treasury, as the case may be, and shall assess the remainder of said cost and expense proportionately upon the lots, parts of lots, and lands fronting on the streets where said work was done, or liable to be assessed for such work, and in the manner heretofore provided.

Sec. 22. The city engineer, or where there is no city engineer, or the proceedings hereunder are before the board of supervisors, the county, or city and county surveyor shall be the proper officer to do the surveying and other engineering work necessary to be done under this act, and to survey and measure the work to be done under contracts for

grading and macadamizing streets, and to estimate the costs and expenses thereof; and every certificate signed by him in his official character shall be prima facie evidence in all courts in this state of the truth of its contents. He shall also keep a record of all surveys made under the provisions of this act, as in other cases.

Sec. 23. The term "incidental expenses," as used in this act, shall include the compensation of the city engineer or county surveyor for work done by him to be fixed by said council or board; also the cost of printing and advertising as provided in this act, and not otherwise. All demands for incidental expenses mentioned in this section shall be presented to the street superintendent, or county surveyor, by itemized bill, duly verified by oath of the demandant.

Sec. 24. The notices, resolutions, orders or other matter required to be published by the provisions of this act, shall be published in a daily newspaper, in municipalities where such there is, and where there is no daily newspaper, in a semi-weekly or weekly newspaper, to be designated by the council, or board, as often as the same is issued, and no other statute shall govern or be applicable to the publications herein provided for; provided, however, that only in case there is no daily, semi-weekly or weekly newspaper printed or circulated in any such municipality then such notices, resolutions, orders or other matters as are herein required to be published in a newspaper, shall be posted and kept posted for the same length of time as required herein for the publication of the same in a daily, semi-weekly or weekly newspaper, in three of the most public places in such municipality. Proof of the publication or posting of any notice provided for herein shall be made by affidavit of the owner, publisher or clerk of the newspaper, or of the poster of the notice. No publication or notice, other than that provided for

in this act, shall be necessary to give validity to any of the proceedings provided for herein.

Sec. 25. Whenever the words "council" or "board" are used herein only that word applying to the body before which the proceedings are pending shall be used in the reading and construction of the provisions of this act in relation to proceedings before such body. The word "council" is hereby declared to include any body or board which, under the law is the legislative department of the government of any municipality. The word "board" is hereby declared to include the board of supervisors of any county, or city and county.

Sec. 26. The words "superintendent of streets," "street superintendent" or "city engineer" used herein, shall be used in the application and construction of this act only when the resolution of intention and the proceedings are under the jurisdiction of the council of the municipality, and this act shall then be read and construed as if the words "or county surveyor," were not incorporated herein, and when the resolution of intention and the proceedings are under the jurisdiction of the board of supervisors, the county surveyor shall perform all of the acts and duties herein required of the superintendent of streets and city engineer, and this act shall be read and construed, when said proceedings are under the jurisdiction of the board of supervisors, as if the said words "street superintendent," "superintendent of streets" and "city engineer" were not incorporated herein, and the words "county surveyor" only were used.

Sec. 27. The words "work," "improved" and "improvement," as used in this act shall include all work mentioned in this act, and also the construction, reconstruction and repairs of all or any portion of said work.

Sec. 28. The word "municipality," as used in this act, shall be understood and so construed as to include and is hereby declared to include, all cor-

porations heretofore organized and now existing, and those hereafter organized, for municipal purposes.

Sec. 29. The words "paved" or "repaved," as used in this act, shall be held to mean and include pavement of stone, whether paving blocks or macadamizing, or of bituminous rock or asphalt, or of iron, wood or other material, whether patented or not, which the council or board shall by ordinance adopt.

Sec. 30. The word "street," as used in this act, shall be deemed to, and is hereby declared to, include avenues, highways, lanes, alleys, crossings, or intersections, courts and places, and the term "main street" means such actually opened street or streets as bound a block; and the word "blocks" whether regular or irregular, shall mean such blocks as are bounded by main streets, or partially by a boundary line of the municipality.

Sec. 31. The terms "street superintendent" and "superintendent of streets," as used in this act, shall be understood and so construed as to include, and are hereby declared to include, any person or officer whose duty it is, under the law, to have the care or charge of the streets, or the improvement thereof in any municipality. In all those municipalities where there is not a street superintendent or superintendent of streets the council thereof is hereby authorized and empowered to appoint a suitable person to discharge the duties herein laid down as those of street superintendent, or superintendent of streets; and all provisions hereof applicable to the street superintendent, or superintendent of streets shall apply to such person so appointed.

Sec. 32. The term "clerk" as used in this act, is hereby declared to include any person or officer who shall be clerk of the said council, or board.

Sec. 33. The term "quarter block" as used in this act as to irregular blocks, shall be deemed to

include all lots or portions of lots having any frontage on either intersecting street half way from such intersection to the next main street or, when no main street intervenes within six hundred feet of such intersection, only those lots or portions of lots or lands within a distance of three hundred feet therefrom shall be considered as being within the quarter block.

Sec. 34. The term "one year," as used in this act, shall be deemed to include the time beginning with January first and ending with the thirty-first day of December of the same year.

Sec. 35. That said act shall take effect and be in force immediately upon its passage.

An Act regulating the placing, erection, use and maintenance of electric poles, wires, cables and appliances, and providing the punishment for the violation thereof.

[Approved April 22, 1911; Stats. 1911, chap. 499.]

- § 1. Regulating placing, erecting and maintaining electric wires, cables and poles.
- § 2. Certain wires or cables excepted.
- § 3. "Span" wires must be insulated.
- § 4. Penalty for violation of act.
- § 5. Conflicting acts repealed.
- § 6. When act takes effect.

Section 1. No commission, officer, agent or employee of the State of California, or of any city and county or city or county or other political subdivision thereof, and no other person, firm, or corporation shall

(a) Run, place, erect or maintain any wire or cable used to conduct or carry electricity, on any pole, or any crossarm, bracket or other appliance attached to such pole, within a distance of thirteen (13) inches from the center line of said pole; provided, that the foregoing provisions of this paragraph (a) shall be held not to apply to telephone, telegraph or other "signal" wires or cables which

are attached to a pole to which is attached no wire or cable other than telephone, telegraph or other "signal" wire or cable, except within the corporate limits of any city or town which shall have been incorporated as a municipality, nor shall the foregoing provisions be held to apply to such wires or cables in cases where the same are run from underground and placed vertically on poles, nor to "bridle" or "jumper" wires on any pole which are attached to telephone, telegraph or other "signal" wires on the same pole, nor to any "aerial" cable, as between such cable and any pole on which it originates or terminates, nor to wires run from "lead" wires to arc lamps or to transformers placed upon poles, nor to any wire or cable where the same is attached to the top of a pole, as between it and the said pole, nor to any "aerial" cable containing telephone, telegraph or other "signal" wires where the same is attached to a pole on which no other wires or cables than wires continuing from said cable are maintained, provided, that electric light or power wires or cables are in no case maintained on the same side of the street or highway on which said "aerial" cable is placed.

(b) Run, place, erect or maintain in the vicinity of any pole (and unattached thereto) within the distance of thirteen (13) inches from the center line of said pole, any wire or cable used to conduct or carry electricity, or place, erect or maintain any pole (to which is attached any wire or cable used to conduct or carry electricity) within the distance of thirteen (13) inches (measured from the center of such pole) from any wire or cable used to conduct or carry electricity; provided, that as between any wire or cable and any pole, as in this paragraph (b) named, only the wire, cable or pole last in point of time run, placed or erected, shall be held to be run, placed, erected or maintained in violation of the provisions of this paragraph; and further provided, that the provisions of this para-

graph (b) shall not be held to apply to telephone, telegraph or other "signal" wires or cables on poles to which are attached no other wires, as between such wires and poles to which are attached no other wires or cables than telephone, telegraph or other "signal" wires, provided such wires, cables and poles are not within the corporate limits of any town or city which shall have been incorporated as a municipality.

(c) Run, place, erect or maintain, above ground, within the distance of four (4) feet from any wire or cable conducting or carrying less than six hundred volts of electricity, any wire or cable which shall conduct or carry at any one time more than six hundred volts of electricity, or run, place, erect or maintain within the distance of four (4) feet from any wire or cable which shall conduct or carry at any one time more than six hundred volts of electricity any wire or cable conducting or carrying less than six hundred volts of electricity; provided, that the foregoing provisions of this paragraph (c) shall be held not to apply to any wires or cables attached to a transformer, within a distance of four (4) feet, (measured along the line of said wire or cable) from the point where such wire or cable is attached to such transformer, nor to wires or cables within buildings or other structures, nor to wires or cables where the same are run from underground and placed vertically on poles, nor to any "lead" wires or cables between the point where the same are made to leave any pole for the purpose of entering any building or other structure, and the point at which they are made to enter such building or structure, and provided, further, that as between any two wires or cables, or any wire or any cable run, placed, erected or maintained in violation of the provisions of this paragraph (c), only the wire or cable last in point of time run, placed or erected shall be held to be run, placed, erected or maintained thus in violation of said provision, and

further provided, that where no more than one crossarm is maintained on a pole, all the wires or cables conducting or carrying at any one time more than six hundred volts of electricity shall be placed on the crossarm on one side of the pole, and all the wires or cables conducting or carrying less than six hundred volts of electricity shall be placed on the crossarm on the other side of the pole, and further provided, that the space between any wire or cable carrying or conducting at any one time more than six hundred volts of electricity and any wire or cable carrying less than said voltage shall be at least thirty-six (36) inches clear measurement in a horizontal line; and further provided, that where two or more systems for the distribution of electric light or power occupy the same poles with wires or cables, all wires or cables conducting or carrying at any one time more than six hundred volts of electricity shall be placed on the crossarms on one side of the pole, and all wires or cables conducting or carrying less than said voltage shall in such case be placed on the crossarms on the other side of the pole, and further provided, that the space between any wire or cable conducting or carrying at any one time more than six hundred volts of electricity and any wire or cable conducting or carrying less than said voltage shall be at least thirty-six (36) inches in measurement in a horizontal line, and further provided that in such construction all crossarms shall be at least thirty-six (36) inches apart in a vertical line.

(d) Run, place, erect or maintain, any wire or cable which shall conduct or carry at any one time more than six hundred volts of electricity, without causing each crossarm, or such other appliance as may be used in lieu thereof, to which such wire or cable is attached to be kept at all times painted a bright yellow color; or, on such crossarm, or other appliance used in lieu thereof, shall be placed enamelled iron signs, providing, in white letters on a green background, the words "High voltage,"

and these letters shall be not less than three (3) inches in height, said signs shall be securely fastened on the face and back of each crossarm. The provisions of this paragraph (d) shall not be held to apply to crossarms to which are attached wires or cables carrying or conducting more than ten thousand volts of electricity, and which are situated outside the corporate limits of any town or city which shall have been incorporated as a municipality.

(e) Run, place, erect or maintain any "guy" wire or "guy" cable attached to any pole or appliance to which is attached any wire or cable used to conduct or carry electricity, without causing said "guy" wire or "guy" cable to be effectively insulated at all times at a distance of not less than four (4) feet nor more than eight (8) feet (measured along the line of said wire or cable) from the upper end thereof, and at a point not less than eight (8) feet vertically above the ground from the lower end thereof; and further provided, that wherever two or more "guy" wires or "guy" cables are attached to a pole there shall be at least one foot, vertical space, between the points of attachment, and further provided that no insulation shall be required at the lower end of a "guy" wire or "guy" cable where the same is attached to a grounded anchor; none of the provisions of this paragraph (e) shall be held to apply to "guy" wires or "guy" cables attached to poles carrying no wire or cable other than telephone, telegraph or other "signal" wire or cable, and which are situated outside the corporate limits of any town or city which shall have been incorporated as a municipality.

(f) Run, place, erect or maintain, vertically on any pole, any wire or cable used to conduct or carry electricity, without causing such wire or cable to be at all times wholly encased in casing equal in durability and insulating efficiency to a wooded casing not less than one and one-half inches thick.

The provisions of this paragraph (f) shall not be held to apply to vertical telephone, telegraph or other "signal" wires or cables on poles where no other than such wires or cables are maintained, and which are outside the corporate limits of any town or city which shall have been incorporated as a municipality.

(g) Place, erect or maintain, on any pole, or on any crossarm or other appliance on said pole, which carries or upon which is placed an electric arc lamp, any transformer for transforming electric currents.

(h) Run, place, erect or maintain any wire or cable carrying more than fifteen thousand volts of electricity across any wire or cable carrying less than said voltage or across any public highway, except on poles of such height and so placed at each crossing that under no circumstances can said wire or cable of said voltage higher than fifteen thousand volts in case of breakage thereof or otherwise, come in contact with any wire or cable of less than said voltage, or fall within a distance of ten (10) feet from the surface of any public highway; or in lieu thereof double strength construction may be installed, in which case the wires carrying a voltage higher than fifteen thousand volts shall, between the points of crossing, be of a cross-section area equal to at least twice that used in the line outside of such crossing, except where the conductor used is equal to four nought (0000) Brown and Sharpe gauge or greater, in which case the wires or cables will be considered as complying with the law.

(i) Run, place, erect or maintain any suspension wire to which is attached any "aerial" cable of "75 pair number nineteen Brown and Sharpe gauge" or over, of "100 pair number twenty-two Brown and Sharpe gauge" or over, suspended from a crossarm (or from any other structure or appliance from which said suspension wire is hung) by a single bolt and clamp without at the same time attaching said suspension wire to said cross-

arm, structure or appliance by an additional "safety" bolt and clamp (or other "safety" appliance for thus attaching said suspension wire) of tensile strength equal to the first herein said bolt and clamp.

Sec. 2. None of the provisions of the preceding section shall be held to apply to "direct current" electric wires or cables having the same polarity, nor to "signal" wires when no more than two (2) of such "signal" wires are attached to any one pole, provided, that none of such "direct current" or "signal" wires shall in any case be run, placed, erected or maintained within the distance of thirteen (13) inches from the center line of any pole (other than the pole or poles on which said wires or cables are carried) carrying electric wires or cables; and provided further, that as between any two wires, or cables, or any wire or cable run, placed, erected or maintained in violation of the provision of this section 2 only the wire or cable last in point of time run, placed, erected or maintained shall be held to be run, placed, erected or maintained thus in violation of said provisions.

Sec. 3. No commission, officer, agent or employee of the State of California, or of any city and county or city or county or other political subdivision thereof, and no other person, firm or corporation shall run, place, erect or maintain any "span" wire attached to any wire or cable used to conduct or carry electricity, without causing said "span" wire to be at all times effectively insulated between the outer point at which it is in any case fastened to the pole or other structure by which it is hung or supported, and at the point at which it is in any case thus attached, provided, that such insulation shall not in any case be placed less than two (2) feet nor more than four (4) feet from said point at which said "span" wire is so attached, and that when in any case such "span" wire is attached along its length to any

two (2) such wires or cables, conducting or carrying electricity and extending parallel to each other, not more than ten (10) feet apart, such insulation shall not be required therein at any point between such parallel wires or cables; none of the provisions of this section (3) shall be held to apply where "feeder" wires are used in place of "span" wires.

Sec. 4. Any violation of any provision of this act shall be deemed to be a misdemeanor, and shall be punishable upon conviction by a fine of not exceeding five hundred dollars (\$500.00) or by imprisonment in a county jail not exceeding six (6) months or by both such fine and imprisonment.

Sec. 5. All acts or parts of acts which are in conflict with the, or with any of the provisions of this, act, are hereby repealed.

Sec. 6. This act shall take effect six months from the date of its passage in so far as it relates to new work, and a period of five years shall be allowed in which to reconstruct all existing work and construction to comply with the provisions of this act.

An Act relating to the liability of public officers for damages resulting from defects and dangers in streets, highways, public buildings, public work or property.

[Approved April 26, 1911; Stats. 1911, chap. 593.]

Section 1. If in consequence of the dangerous or defective condition of any street, highway, public building, public work or property, any person shall suffer injury to his person or property, no officer who has charge of, or whose duty it is to care for or repair, any street, highway, public building, public work or property, shall be liable for any injury to person or property arising from the dangerous or defective condition thereof or failure to repair the same, unless such officer shall have had actual notice of such defective or dangerous condition and shall have failed for a reasonable time

after such actual notice to repair the same; provided, that such officer had authority to remedy such condition, or to make such repair at the expense of the state, or a political subdivision thereof, and funds were available for that purpose; and provided further, that it shall further appear that such damage or injury was sustained while said street, highway, public building, public work, or property was being carefully used and that due care was exercised to avoid such danger, but in all such cases damage may be recovered against the county, city, or city and county as in ordinary actions for damages, and in cases of judgment recovered against the county the amount thereof and cost shall be paid out of the road district fund of the district where the accident occurred, and in all other cases the judgment must be paid out of the general fund of such county, city, or city and county.

An Act to provide for maintenance of county highways improved under bond issues in the counties of the state and empowering the boards of supervisors to levy taxes therefor.

[Approved May 1, 1911; Stats. 1911, chap. 709.]

Section 1. Whenever any county highway is improved under a county bond issue, which bond issue covers all property of the county, and is accepted by the board of supervisors, it becomes their duty to provide for a continuous system of maintenance from the fund hereinafter created.

Sec. 2. The board of supervisors must annually for each fiscal year, levy a tax, not to exceed three cents on each one hundred dollars of value of taxable property of the county, for each one hundred miles of improved county highways under a bond issue therefor. This tax shall be collected by the several officers charged with the collection of other county taxes in the same manner and at the same time as other county taxes are collected on all

property, and the collections thereof must be paid into the county treasury and by the county treasurer converted into a separate fund hereby created known as the county highway maintenance fund. The money derived from such tax must be applied solely to the maintenance of county highways improved under a bond issue to cover the whole county.

Sec. 3. The board of supervisors must expend money from the "county highway maintenance fund" for the maintenance of highways described in section one of this act, on a continuous basis of repair, and the highways shall be improved uninterruptedly after their acceptance.

An Act to provide a state highway from Meyer's station in El Dorado county, California, to McKinney's in Placer county, California, and making an appropriation therefor.

[Approved March 9, 1911; Stats. 1911, chap. 158.]

Section 1. There is hereby appropriated out of any money in the state treasury not otherwise appropriated, the sum of twenty-five thousand dollars (\$25,000.00) for the purpose of locating, surveying, and constructing a state highway from a point on the Lake Tahoe state wagon road, at or near Meyer's station, in El Dorado county, California, thence past Tallac, Emerald Bay, to McKinney's, in Placer county, California.

Sec. 2. The work of locating, surveying and constructing said state highway is placed under the management and control of the department of engineering, and it shall be the duty of the said state department to locate, survey and construct said road along the route herein mentioned. Of the money hereby appropriated seven thousand five hundred dollars shall be available on and after July 1, 1911, and seventeen thousand five hundred dollars on and after July 1, 1912. The state controller is hereby directed to draw his warrant in such sums

and at such times as the state engineer may, after said funds become available, present claims therefor, and the state treasurer is directed to pay the same.

An Act to make an appropriation for the construction and completion of a state highway connecting the counties of Trinity, Tehama and Shasta with the road system of Humboldt county.

[Approved March 23, 1911; Stats. 1911, chap. 274.]

Section 1. There is hereby appropriated out of any money in the state treasury not otherwise appropriated the sum of fifty thousand dollars (\$50,000.) for the construction and completion of a state highway connecting the counties of Trinity, Tehama and Shasta with the road system of Humboldt county, which will most conveniently accommodate the citizens of said counties.

Sec. 2. The work of continuing the construction and completion of the said highway from the point to which it has been completed, under the management and control of the department of engineering, and it shall be the duty of the said department of engineering to continue to complete the construction of said road, from the point to which said road has been completed, to its terminus, upon the best ground and grades consistent with the country traversed.

Sec. 3. The money appropriated under this act shall become available at the following times. Twenty-five thousand dollars (\$25,000.) on and after May 1, 1911, and twenty-five thousand dollars (\$25,000.) on and after July 1, 1912. The state controller is directed and instructed to draw his warrants in such amounts and at such times as the department of engineering may present claims therefor, and the state treasurer is directed to pay the same.

Sec. 4. This act shall take effect immediately.

An Act to make an appropriation for the general improvement of the Lake Tahoe wagon road; a state highway.

[Approved March 31, 1911; Stats. 1911, chap. 334.]

Section 1. There is hereby appropriated out of any money in the state treasury, not otherwise appropriated, the sum of fifteen thousand dollars for the general improvement of the Lake Tahoe wagon road and the purchasing of rock crusher and necessary equipment therefor.

Sec. 2. The department of engineering shall have full control of such improvements and shall determine upon what section of the Lake Tahoe wagon road, a state highway, said money shall be expended.

Sec. 3. The money appropriated under the provisions of this act is hereby made available as follows: The sum of seven thousand dollars is made available on and after April first, nineteen hundred and eleven; three thousand dollars is made available on and after July first, nineteen hundred and eleven; three thousand dollars is made available on and after April first, nineteen hundred and twelve, and the sum of two thousand dollars is made available on and after July first, nineteen hundred and twelve. The state controller is hereby instructed and directed to draw his warrants at such times and in such amounts as the department of engineering may present claims for, said warrants shall be drawn in favor of the said department of engineering, and the state treasurer is hereby directed and instructed to pay said warrants and the department of engineering shall distribute the same.

Sec. 4. This act shall take effect and be in force from and after its passage and approval.

An Act to establish the Alpine state highway; to define its course; to provide for its supervision,

construction, repair and maintenance, and to make an appropriation therefor.

[Approved April 15, 1911; Stats. 1911, chap. 468.]

Section 1. That certain road commencing at the Calaveras big tree grove, located in Calaveras county, thence running to Darrington in said county, thence easterly following what is known as the Big Tree and Carson valley turnpike, to Mount Bullion in Alpine county; thence along county road to Markleeville, in Alpine county; thence along that certain road via Kirkwood, Silver Lake, Pine Grove and Irishtown to Jackson, in Amador county, including therewith the road from Pickett's in Hope Valley connecting with the Lake Tahoe wagon road, a state highway, at Osgood's place in El Dorado county, and the road from Mount Bullion via Loupe, in Alpine county, to the Junction in Mono county, connecting with the Sonora and Mono state highway, is hereby declared and established a state highway and shall be designated and known as the Alpine state highway.

Sec. 2. The work of locating, surveying, constructing, repairing and maintaining said state highway is hereby placed under the management and control of the department of engineering and it shall be the duty of said department to locate, survey, construct, repair and maintain said state highway along all the roads above described, with such variations and modifications of grades thereon as will in the opinion of said department be deemed advisable.

Sec. 3. There is hereby appropriated out of any money in the state treasury not otherwise appropriated the sum of thirty-five thousand dollars to be expended under the supervision of said department for the construction, repair and maintenance of said state highway and modification of grades thereon. Of the sum hereby appropriated seventeen thousand five hundred dollars thereof shall be available on the first day of July, 1911, and the

remaining seventeen thousand five hundred dollars thereof shall be available on the first day of July, 1912.

Sec. 4. The state controller is hereby directed to draw his warrants in such sums and at such times as the state engineer may present claims therefor, and the state treasurer is directed to pay the same.

An Act declaring a state highway from the Shasta county line through Lassen county to the Modoc county line, and making an appropriation for its improvement and maintenance.

[Approved April 22, 1911; Stats. 1911, chap. 498.]

Section 1. That certain highway known as the county road, and beginning on the boundary line between Shasta and Lassen counties in the northeast corner of township 37 north, range 6 east, and running and extending through township 38 north, range 6 east, township 38 north, range 7 east, township 38 north, range 8 east, to the Modoc county line, a distance of twenty-nine miles, is hereby declared to be, and the same is a state highway and shall be designated and known as the Lassen State Highway.

Sec. 2. The said road hereby constituted a state highway is hereby placed under the supervision and control of the department of engineering of the State of California.

Sec. 3. The department of engineering is hereby authorized to construct, repair and maintain said highway when appropriations are available therefor, and to modify grades thereon wherever necessary.

Sec. 4. There is hereby appropriated out of any money in the state treasury not otherwise appropriated, the sum of five thousand dollars to be expended under the supervision of the said department, for the construction, repair and maintenance of said highway and modification of grades there-

on. Of the sum hereby appropriated three thousand dollars thereof shall be available on the first day of July, 1911, and the remaining two thousand dollars thereof shall be available on the first day of July, 1912.

Sec. 5. The controller of the State of California is hereby authorized and directed to draw his warrant on the state treasurer for the said amounts and the state treasurer is hereby directed to pay the same.

An Act to provide for the continuation of the construction of the highway known as Kings river highway, and to make an appropriation therefor.

[Approved April 21, 1911; Stats. 1911, chap. 502.]

Section 1. There is hereby appropriated out of any money in the state treasury not otherwise appropriated, the sum of twenty-five thousand dollars to continue and complete the state highway now partially completed by the State of California from the General Grant National Park to the floor of the Kings river canyon.

Sec. 2. The money appropriated under the provisions of this act is hereby made available as follows: On May 1, 1911, twelve thousand five hundred dollars, and on July 1, 1912, twelve thousand five hundred.

Sec. 3. The state controller is hereby authorized to draw his warrants at such times and in such sums as the state department of engineering shall present claims for, and the state treasurer is authorized to pay the same.

Sec. 4. This act shall be in effect from and after its passage and approval.

An Act to make an appropriation for the maintenance of the state highway from Emigrant

Gap, Placer county, to the west end of Donner Lake, Nevada county.

[Approved April 21, 1911; Stats. 1911, chap. 503.]

Section 1. There is hereby appropriated out of any money in the state treasury not otherwise appropriated, the sum of five thousand dollars (\$5,000.00) for the maintenance and upkeep of the state highway from Emigrant Gap, Placer county, to the west end of Donner Lake in Nevada county, Two thousand five hundred dollars (\$2,500.00) shall be available on the first day of May, 1911, and two thousand five hundred dollars (\$2,500.00) shall be available on the first day of May, 1912.

Sec. 2. The state controller is hereby directed to draw his warrants in such sums and at such times as the state engineer may present claims therefor, and the state treasurer is directed to pay the same.

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